

Jury Trial - Volume 1
November 13, 2017

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1 (Proceedings had on November 13, 2017.)

2 THE COURT: We are here in Tudor vs. Southeastern
3 outside the presence of the jury. I've raced through three
4 motions this morning, which may need to be addressed before we
5 start and they may not.

6 I'll start with plaintiff's motion to admit Conway by
7 deposition.

8 Defendants have a response?

9 MS. COFFEY: Your Honor, yes. The defendants oppose
10 plaintiff's motion.

11 This matter was resolved by the Court at docket call on
12 November 1st when defendants asked permission to present
13 Ms. Conway via remote.

14 Ms. Conway is comfortable with presenting herself via
15 remote. There are no difficulties. Plaintiff's counsel
16 raised a question or difficulty of providing exhibits to the
17 witness, all of which can be handled very easily either via
18 e-mail or via Federal Express if necessary. There literally
19 is no basis for plaintiff's motion.

20 THE COURT: Well, do you concede that the witness is
21 unavailable?

22 MS. COFFEY: No, Your Honor.

23 THE COURT: So if she is subpoenaed, she will appear
24 here?

25 MS. COFFEY: We raised that with Your Honor a couple

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1 of weeks ago.

2 THE COURT: The problem --

3 MS. COFFEY: Yes?

4 THE COURT: -- is that plaintiffs are entitled to
5 put on their case in chief before you put on yours, and they
6 are not required, if she's unavailable, to put her on by video
7 conference. They can use her deposition for that purpose if
8 she's unavailable.

9 That doesn't mean you can't call her by video conference.
10 You would be limited in what your -- you can't repeat
11 yourselves, but you can cross-examine based on the direct
12 examination. That's how I see the resolution of this.

13 I assume that the portions you have designated are only
14 those necessary to support your case in chief and what you
15 want to present on plaintiff's behalf.

16 MR. YOUNG: Yes, Your Honor.

17 THE COURT: I will permit you to do that. You
18 cannot do it today.

19 MR. YOUNG: Okay, Your Honor.

20 THE COURT: You can look at those designations,
21 object, counterdesignate, whatever you want to do. Again, you
22 won't be able to question her about anything that comes out in
23 her deposition. We're not going to repeat it.

24 MS. COFFEY: Your Honor, if Ms. Conway indicates
25 that, because of her health, that she would be willing to come

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1 up here and testify live Tuesday or Wednesday, whichever day
2 plaintiff wanted her, would that be acceptable?

3 THE COURT: Of course. If she's available, that
4 deposition can't be used, but you-all need to work that out
5 and know what you're facing because you only have a day or two
6 to look at their designation and counterdesignate or object.

7 MS. COFFEY: Thank you, Your Honor.

8 THE COURT: The defendants' motion to strike trial
9 exhibits, I'm not sure that I understand this.

10 Is the only absence that you're complaining of the case
11 number?

12 MS. COFFEY: Your Honor, there's no identification
13 on plaintiff's exhibits that they've provided, so that if I
14 were to utilize one of plaintiff's exhibits to cross-examine a
15 witness, when you look at the bottom, it has the discovery
16 Bates number on it. It has no identification.

17 THE COURT: No exhibit number?

18 MS. COFFEY: No exhibit number.

19 THE COURT: Okay. I'm not concerned about the case
20 number. We all know what case this is, even though local
21 rules require it.

22 MR. YOUNG: Yes, Your Honor.

23 THE COURT: But they have to have exhibit numbers.
24 Has that been done?

25 MR. YOUNG: Well, this is the first time the

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1 defendants have raised this issue.

2 THE COURT: It's a rule.

3 MR. YOUNG: I understand, Your Honor. But both
4 sides have struggled getting the exhibits to each other. In
5 good faith, we agreed to tell each other if we saw
6 deficiencies. We have corrected defendant's exhibits multiple
7 times.

8 Today is the very first time they have said that the
9 exhibit number is missing. I apologize. We can attempt to
10 reprint them all and give them to them. We can attempt to
11 send them new electronic copies, all marked with an exhibit at
12 the bottom of them.

13 THE COURT: Do you have sticker numbers on each
14 exhibit?

15 MR. YOUNG: I have stickers in my bag we can place
16 on there, Your Honor.

17 THE COURT: That should have been done days if not
18 weeks ago.

19 MR. YOUNG: Yes, Your Honor.

20 THE COURT: Well, do it. Until it is done, none of
21 your exhibits are admissible.

22 MR. YOUNG: Okay.

23 THE COURT: Plaintiff's motion to strike, have you
24 had a chance to look at this, Ms. Coffey?

25 MR. BUNSON: I'm sorry, Your Honor.

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1 THE COURT: "No"?

2 MR. BUNSON: Yes, we have had a chance to review it.

3 THE COURT: As to the first issue, the failure to
4 mitigate, do you have any objection?

5 MR. BUNSON: Your Honor, yes, actually, we do have
6 an objection.

7 One, though the Court's order of 11-2 indicates that they
8 could withdraw this claim, thereby making the failure to
9 mitigate moot, unfortunately, they failed to document that --
10 the Collins College documents serve more than just a
11 failure-to-mitigate purpose. They are, in fact, relevant for
12 two very important purposes.

13 First, it goes to Dr. Tudor's credibility as to her own
14 assessment of her teaching abilities, and it also demonstrates
15 that Dr. Tudor has a pattern of claiming discrimination
16 whenever a decision is made that doesn't benefit her.

17 Furthermore, the entire motion is a motion in limine,
18 which, according to this Court's scheduling order, was due
19 October 10th. None of the issues raised in plaintiff's motion
20 was in any way new or novel.

21 THE COURT: Well, this is a response to a ruling I
22 made last week, and, because of that, it's certainly timely.
23 Or it's not untimely. I'll say it that way.

24 I'm not really prepared to rule on the second one of
25 these.

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1 The one I am ready to rule on is the fourth issue that
2 asks me to strike your defense, that transgender persons are
3 not protected by Title VII. To the contrary, I have cited the
4 Tenth Circuit law that says they are not simply by means of
5 being transgender. Gender is protected.

6 Your theory of this case throughout has been that you are
7 not complaining that transgender persons were treated
8 differently, but that Dr. Tudor, once she was a woman, was
9 treated differently. That's permissible, but I'm not going to
10 strike that defense because I have agreed with it.

11 As to the others, if something comes up today that you
12 need a ruling on these, approach the bench before you go any
13 further.

14 MR. YOUNG: Yes, Your Honor.

15 THE COURT: How long do you want for opening
16 statement?

17 MR. YOUNG: Less than 15 minutes, Your Honor.

18 THE COURT: Is 15 minutes sufficient?

19 MS. COFFEY: 15 minutes, Your Honor.

20 THE COURT: All right. Call for the jury, please.

21 MR. JOSEPH: Your Honor, may we invoke the rule at
22 this time before the jury gets here?

23 THE COURT: Yes.

24 MR. JOSEPH: Thank you, Your Honor.

25 THE COURT: Are there persons in the courtroom

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1 expected to be called as witnesses in this case?

2 MR. YOUNG: Just Dr. Tudor, Your Honor.

3 THE COURT: Of course, she's exempted from the rule.

4 No one else? All right.

5 Counsel, I'll ask you to look to your own witnesses. If
6 somebody comes in that you know will be a witness, let me know
7 or you go tell them to leave.

8 (Jury enters courtroom.)

9 THE COURT: Be seated.

10 I don't think I probably told you to sit in the same
11 seats you were in when you left, because you're not doing that
12 right now.

13 So I have my seating chart, which is no good where you're
14 sitting now.

15 Ms. Taylor, I need you back here, Mr. Payton next to her,
16 Ms. Hall in the third seat, and Ms. Fields in the fourth.
17 Ms. Norton, you're in the third seat, Mr. Mallory in the
18 fourth.

19 Now, let me say good morning to you, now that I know
20 who's who. I'm going to call the roll just to make sure for
21 the record that you're all here.

22 Ms. Taylor. Mr. Payton. Ms. Hall. Ms. Fields.
23 Mr. Mallory. Ms. Norton. Ms. Morse. And Ms. Rogers.

24 If you would, please, take those same seats every time
25 you come back in the courtroom.

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1 Good morning to you.

2 Let me ask you first if any of you have had any
3 experience, since we were here last week, that would interfere
4 with your ability to be a fair and impartial juror. Any
5 answer to give me that would be different from one that you
6 gave me last week?

7 I'll ask you to stand, raise your right hands, and be
8 sworn by the clerk to try this case.

9 (Impaneled jury duly sworn.)

10 THE COURT: Be seated.

11 Now that you have been sworn, I am going to give you some
12 preliminary instructions to guide you in your participation in
13 this trial.

14 It will be your duty to find from the evidence what the
15 facts are. You and you alone are the judges of the facts, but
16 you have to apply to those facts the law as I give it to you.
17 You must follow that law whether you agree with it or not.
18 Nothing I may say or do during the course of this trial is
19 meant to indicate what I think your verdict should be. That
20 is entirely for you to decide.

21 The evidence from which -- the evidence from which you
22 will find the facts consists of testimony that you hear here
23 in the courtroom, any documents or other things received into
24 evidence, and any facts that the lawyers agree to or stipulate
25 to.

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1 Certain things are not evidence and must not be
2 considered. First, statements, arguments, and questions by
3 lawyers are not evidence. Second, objections to questions are
4 not evidence, and you shouldn't be influenced by any lawyer's
5 objections or by my rulings on them.

6 If I sustain an objection, ignore the question. If I
7 overrule the objection, treat the answer as you would any
8 other.

9 Any testimony that I may exclude or tell you to disregard
10 is not evidence. Finally, anything you see or hear outside
11 the courtroom is not evidence and shouldn't be considered in
12 deciding this case.

13 There are two kinds of evidence, direct and
14 circumstantial. Direct evidence is direct proof of a fact,
15 like the testimony of an eyewitness. Circumstantial evidence
16 is proof of a chain of facts or circumstances from which you
17 can infer that facts exist.

18 The classic law school example of this is, if you see
19 someone walking on the beach, that's direct evidence. If you
20 see footprints in the sand, that's circumstantial evidence
21 that someone has been walking there.

22 Keep in mind that you can consider both kinds of
23 testimony or evidence equally and also that it will be
24 entirely up to you to decide how much of any witness's
25 testimony to accept or reject.

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1 This is a civil case, and the plaintiff has the burden of
2 proving her case by what is called a preponderance of the
3 evidence. That means the plaintiff has to produce evidence
4 which, considered in light of all the facts, leads you to
5 believe that what she claims is more likely true than not
6 true.

7 To put it differently, if you were to put the plaintiff's
8 evidence and the defendants' evidence on opposite sides of the
9 scale, the plaintiff has to make that scale tip somewhat in
10 her favor. If she does not, your verdict must be for the
11 defendants.

12 Those of you who have sat on criminal cases or watched TV
13 will know -- will have heard of "proof beyond a reasonable
14 doubt." That is not the standard in this case, and you should
15 put it out of your mind.

16 As to your conduct as jurors, as I have explained to you,
17 you must decide this case based solely on the evidence
18 presented right here in this courtroom. This means you can't
19 conduct any independent research, you shouldn't consult
20 dictionaries or reference materials, you shouldn't search the
21 internet or websites.

22 Until you retire to deliberate, you may not discuss the
23 case with anyone, not among yourselves or with anyone else,
24 and you should expose yourself to absolutely no media accounts
25 of this trial.

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1 I don't think I told you last week, when I gave you most
2 of this instruction, that you also shouldn't blog or use
3 social media about your experience as jurors. That can
4 possibly compromise any verdict that is reached by this jury.

5 We want to keep you in a little bubble, and we can't do
6 that, but we're going to get as close to that as we can. It
7 requires your cooperation.

8 This case is what happens inside this courtroom, and we
9 don't want you reaching out to anybody else to talk about the
10 case or anyone else to talk to you.

11 If you want to take notes during the trial, you may.
12 There are implements and instruments under your chairs or
13 maybe at the end --

14 THE CLERK: They're under there.

15 THE COURT: Under your chairs. Okay.

16 Taking notes is a very personal issue. It helps some
17 people pay attention; other people, it's a total distraction.

18 So if you take notes, please remember these things:

19 Don't pay so much attention to your notes that you forget
20 to listen to the witness. When you get to the jury
21 deliberation room, don't pay too much attention to any one
22 juror's notes. You should consult your collective memory, and
23 the fact that somebody has it in their notes doesn't
24 necessarily make it so.

25 If you take notes, always leave the pads under your chair

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1 in the courtroom. Don't ever walk out with them. We will
2 maintain their security.

3 If you choose not to take notes, that's perfectly fine.
4 Sometimes even doodling helps you listen. So just make sure
5 you're paying attention is all I want you to do.

6 I want to introduce my staff.

7 Over here is Jeff Lynch. He is a lawyer. He works for
8 me. He will act as your bailiff when you retire to
9 deliberate.

10 Linda Goode is the court clerk assigned to my courtroom.
11 As you have seen, she administers oaths; she keeps up with the
12 exhibits.

13 Over here, Sherri Grubbs, who takes down every word on
14 her magic machine. She will occasionally throw her hands up
15 when people are talking at the same time.

16 I'm Judge Cauthron, by the way.

17 We are the people you will see throughout this trial. We
18 would like to make this as pleasant as we can for you. If
19 there's anything at all you need, please let one of us know,
20 and we will help you if we can.

21 My schedule is roughly 9:00 to 4:00 or 4:30. I like to
22 get you out of here before the worst of the traffic. We will
23 take an hour for lunch at midday and a 15-minute break morning
24 and afternoon. If you need a break, if you can't hear, if you
25 need anything while we're in the courtroom, just let me know,

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1 and I will accommodate you if I possibly can.

2 The participants in the trial all have water available to
3 them. It's only fair that you do too. So you may bring water
4 in with you. I'd ask that it's only water because it's very
5 easily tipped over at your feet, where it's necessary to keep
6 it. So a bottle or a cup of water is fine to bring back.

7 Finally, as you saw during jury selection, there are
8 times when the lawyers come to the bench to have a
9 conversation with me outside of your hearing.

10 I encourage you to stand and stretch whenever that
11 happens or when we're waiting for a witness or at any pause in
12 the trial. You will be amazed at how hard it is to sit still
13 all day long. That's really the hardest part of jury service,
14 is sitting all day long. So when you get a chance, stand up,
15 stretch, and you'll feel a lot better at the end of the day.

16 The trial begins with each side making an opening
17 statement. An opening statement is not evidence and it's not
18 argument. It's a blueprint of what that lawyer intends to
19 prove during the trial, aided for your assistance.

20 After the plaintiff and defendant have made an opening
21 statement, the plaintiff will present her witnesses, whom the
22 defendant may cross-examine. At the close of plaintiff's
23 case, defendant may present witnesses, who plaintiff may
24 cross-examine.

25 After all the evidence is in, I will instruct you as to

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1 the law, and then the lawyers will argue -- make their closing
2 arguments, attempting to persuade you to their point of views.

3 At that point, the case will be yours to deliberate.

4 That is how a trial proceeds. We are now ready for
5 opening statement from plaintiff.

6 MR. YOUNG: Thank you, Your Honor.

7 We're all here today because the government broke the
8 law. They violated rules. They changed rules so that they
9 could break the law. They made up new rules that were only
10 imposed on Rachel Tudor.

11 Last week, when you were selected for this jury, my
12 colleague, Marie Galindo, told you that we were all here to
13 right wrong.

14 Ultimately, you're going to be asked to answer three very
15 simple questions.

16 The first one: Is it okay to make someone miserable at
17 work just because they are different?

18 The second one: Is it okay to deny someone something
19 they earned just because they are different?

20 Third question: Is it okay to attack someone because
21 they complain when they were mistreated?

22 Now, at Southeastern Oklahoma State University -- I'll
23 say right now that I'm going to call it Southeastern. It's a
24 mouthful. Okay?

25 So at Southeastern Oklahoma State University, a handful

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1 of new professors are hired on something called tenure track.
2 Being on tenure track means that a university sees promise in
3 a professor. After a few years, a tenure track professor can
4 apply for tenure.

5 Tenure is a huge promotion if you're an academic. It's
6 the thing that you go to grad school for, that you work really
7 hard for, that you yearn to get. It is a huge, huge deal.

8 Now, if you get tenure, it means a lot of things. It
9 means a pay raise. It means a lot of pride. It's an event
10 you celebrate with your family and friends and loved ones.
11 It's something you post about on Facebook, that sort of thing.

12 But it also means something more. It means that you've
13 become a permanent part of the university, your stability,
14 your family.

15 With the exception of one time in all of Southeastern's
16 history, when a department committee and a department chair
17 voted to grant tenure to a professor, the professor got it.
18 One exception.

19 Now, let me tell you a story.

20 My client, Rachel Tudor, is a different kind of woman.
21 She is transgender. That fact right there is why we're all
22 here today.

23 Now, Rachel was born in Oklahoma. She moved around a bit
24 as a kid. She was the first person in her family to go to
25 college. Rachel had really big dreams for someone who came

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1 from a family like hers. She grew up really poor, but she
2 wanted to do well. Let me tell you about what it meant for
3 her to do well.

4 She wanted to buy her older sissy a house one day.
5 Rachel thought that maybe after she bought Rosie a house, she
6 might get her own house one day. She didn't need anything
7 big. She just wanted something with a backyard big enough
8 that a couple of dogs would be happy in it.

9 Most importantly, Rachel wanted to make her family proud.

10 Now, Rachel got her Ph.D. at the University of Oklahoma,
11 the state's flagship school. It's at O.U. where Rachel fell
12 in love with Native American literature and took the first big
13 steps on her path towards becoming an English professor.

14 In 2004 Rachel took a tenure track job at Southeastern.
15 Rachel was beloved at Southeastern. She worked hard. She
16 wrote thoughtful articles that her colleagues liked. She was
17 passionate in the classroom. Indeed, you'll hear later on in
18 this trial that many students who took English classes with
19 Rachel decided to major in English, even a few who hated it
20 going in. So she was a good professor. That's pretty rare.

21 Now, Rachel put roots down in Durant, the small city
22 where Southeastern sits. She put roots down there because she
23 loves Oklahoma and she wanted nothing more but to live her
24 life here and serve her students.

25 Frankly, Rachel is exactly the kind of passionate

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1 educator we all want in a classroom.

2 Fast-forward a bit, 2007. In 2007 Rachel took a brave
3 step out. She transitioned from male to female. Now, Rachel
4 went through this transition because she wanted her colleagues
5 and her students to know the real her. That's it. Pretty
6 simple.

7 Rachel didn't want much here. She wanted to be known as
8 Rachel, and she wanted to continue to do her job. It's pretty
9 simple to call someone by a new name. We all do it all the
10 time with married women, pretty quick change.

11 It's also pretty simple to let a hard worker just do
12 their job in peace. Those are the two things Rachel Tudor
13 asked for. That's all she has really ever asked for.

14 Now, folks that don't know Oklahomans might think that
15 Rachel's gender transition was a big deal for her colleagues
16 and students. It was Durant, Oklahoma, in 2007. But I think
17 you and I both know how Oklahomans deal with differences.
18 They just don't care even if you stick out a bit.

19 That's essentially what Rachel experienced at
20 Southeastern for the most part. Rachel's colleagues in the
21 English department and all of her students welcomed her
22 despite her difference. No one complained. They just told
23 her she was welcome there.

24 They all understood that she was just a different type of
25 woman now, a little bit different, but easy enough, handled in

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1 true Oklahoman fashion. None of them had to overthink things
2 too much because good Oklahomans welcome folks even if their
3 differences show.

4 Now, not everyone reacted well. Of course, that's why
5 we're all here today. Even though the professors and students
6 continued to love Rachel, respect Rachel, want to work with
7 Rachel, things were not perfect at Southeastern.

8 Once Rachel told human resources -- human resources, the
9 folks who are supposed to help you through personal matters,
10 the folks you're supposed to report discrimination to, once
11 Rachel told human resources about her gender transition, some
12 of Southeastern's administrators decided to circle the wagons.
13 They didn't like her difference. They didn't want Rachel to
14 stay at Southeastern. They wanted to make Rachel so miserable
15 that she would leave.

16 So in 2007, Cathy Conway, Southeastern's human resources
17 director, called Rachel, told her that the vice president for
18 academic affairs, Doug McMillan -- and I want you to remember
19 that name, Doug McMillan -- told -- Doug McMillan wanted
20 Rachel gone because she's transgender.

21 Conway told Rachel that she wouldn't be fired immediately
22 if she followed some special rules.

23 If Rachel didn't follow these special rules, Rachel was
24 told she would be fired immediately. These are the three
25 rules that Rachel was given.

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1 Rachel couldn't use any women's restroom on campus.

2 Second rule that Rachel was given: She couldn't wear
3 clothes that other women on campus could wear.

4 Third rule: Rachel had to get her makeup right.

5 I'll be honest with you there. I'm not really sure what
6 that last rule really means, but it seems like a trap, doesn't
7 it?

8 Now, Rachel was told if she broke any of those three
9 rules -- restrooms, clothes, or makeup -- she would be fired.

10 What Southeastern did to Rachel in 2007 was not right,
11 wasn't fair. It wasn't how Oklahomans should treat each
12 other. But Rachel was determined to push through. She needed
13 her job.

14 There's something else I need to share with you about
15 Rachel Tudor. She is an unassuming English professor type,
16 which works out really well when you're an English professor,
17 a little bit quiet, a little bit shy, bookish. She loves
18 books.

19 But Rachel also has a quiet confidence about her. Rachel
20 also follows rules.

21 So even though Southeastern imposed those unfair rules on
22 Rachel, she pushed on. For every single day she worked at
23 Southeastern onward until she left, she followed those rules
24 daily. Even though she hated them, even though she knew she
25 shouldn't have to, she followed those rules. Rachel didn't

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1 quit.

2 Flash forward a little bit, a couple years forward to
3 2009. In 2009, Rachel applied for tenure. Now, Rachel's
4 department committee and department chair voted in favor of
5 her tenure application. As I mentioned before, up to that
6 time, in all of Southeastern's history, the rules had been
7 that two votes -- one from the department committee and one
8 from the department chair -- meant the professor got tenure.
9 That's just how it worked.

10 But, of course, we're all here today because a few
11 administrators decided they didn't want to follow those rules,
12 they didn't want to follow those rules for Rachel Tudor.

13 In quick succession, three administrators -- Dean
14 Lucretia Scoufos, Doug McMillan -- remember him? -- and Larry
15 Minks voted to deny Rachel tenure.

16 Scoufos and McMillan refused to even tell Rachel why they
17 voted against her. That violated another rule at
18 Southeastern.

19 If, in the rare circumstance you weren't going to follow
20 what the department did, you had to, at the very least, give
21 an explanation for it. Someone deserves a little bit of
22 explanation, right, if they're going to at least break the
23 rules?

24 Well, they wouldn't tell Rachel. She asked, she begged,
25 she complained. They would not even tell her why they did

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1 what they did.

2 Months later, after refusing and refusing and refusing to
3 tell Rachel why they did what they did, some of those
4 administrators fabricated reasons for why they denied her
5 tenure. They made up reasons that they said she wasn't
6 qualified for tenure.

7 Now, later this week, I'm going to introduce you to
8 someone, Dr. Robert Parker. He is an expert on tenure.
9 Dr. Parker will explain to you why the reasons the
10 administrators fabricated do not even make sense. So even if
11 we accepted the reasons they fabricated after the fact, those
12 reasons don't even make sense for what they did.

13 Now, there are also a lot of irregularities in the 2009
14 application. Later today, Rachel Tudor is going to tell you a
15 little bit about those irregularities; and, later this week,
16 some of the professors from Southeastern, professors who still
17 to this day support her, are going to explain to you what
18 those irregularities are.

19 But, frankly, the whole thing stank. Suffice it to say,
20 Rachel didn't get tenure from her 2009 application.

21 Unfortunately for Rachel, after the 2009 application was
22 over, the Southeastern administration wasn't done messing with
23 her. Under Southeastern's rules, Rachel had one more shot at
24 tenure in 2010.

25 Now, just a few days before Rachel's new application was

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1 supposed to go to the department for another vote, just like
2 it did before, Doug McMillan jumped in Rachel's way again. I
3 told you to remember that name.

4 Now, in a totally unprecedented letter, Doug McMillan
5 banned Rachel from applying for tenure again. In that October
6 2010 letter -- and this is the most important thing I want you
7 to remember about it -- Doug McMillan told Rachel that
8 Southeastern's rules allowed Rachel to reapply for tenure, but
9 he wasn't going to follow those rules, not for Rachel Tudor.

10 Because Rachel was banned from applying for tenure in
11 2010, she was automatically fired at the end of the spring
12 2011 semester. She packed up her office and she left.

13 Now, as you might all imagine, during this whole process,
14 Rachel was living in a waking nightmare. She had gone from
15 the high of receiving what should have been the biggest
16 promotion of her entire career, something she worked her
17 entire life for, to witnessing the administrators break rule
18 after rule after rule.

19 Rachel went from being treated, just like everybody else
20 at Southeastern, on her merits, as a human being, to being
21 punished just because she was different.

22 Now, Rachel did her best to fight for herself when she
23 was at Southeastern. She filed complaints at the school. She
24 filed complaints outside of the school. She wrote letters.
25 She kept documentation. Near the end, she even put together a

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1 blog documenting what was happening just so that the world
2 could see it.

3 Throughout this trial, myself and my colleagues sitting
4 at the table with me are going to show you a few of the things
5 that Rachel did to try to document what was happening to her,
6 and it's not all of it. She documented a lot.

7 The one thing I want you to remember, though, is that
8 when you get to those things is why Rachel did them. Rachel
9 documented things because it became clear to her midway
10 through this process that Southeastern was never going to
11 follow the rules. It didn't matter what she did. It didn't
12 matter if she followed the rules. They were never going to
13 follow those rules.

14 She knew that her only hope to get this wrong righted was
15 to have evidence for fair-minded folks outside of Southeastern
16 to see for themselves what happened. In essence, Rachel left
17 us all a trail of bread crumbs so that we can see with our own
18 eyes the truth of what happened at Southeastern.

19 Now, Rachel is depending on us all to step in, to be
20 fair-minded, and ultimately to come to her aid. Once both
21 sides present you with the evidence, I'm going to come back up
22 here and talk with you again; but before I come back to chat
23 with you for one last time, I'm going to leave you with a few
24 things to think about.

25 The first thing, people change over time. That's just

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1 the nature of life. We all change. Some people change
2 religions. Some people, like Rachel, change genders.
3 Regardless of what the change is, though, sometimes change is
4 necessary. It's just something that has to happen. You can't
5 stop it.

6 When you can't stop something like change and it's
7 necessary, it's just not fair to punish someone for being
8 different, for having to go through that change because
9 they're at work. It's not okay to punish someone at work, to
10 take food off their table, just because they're a little bit
11 different.

12 The second thing I'm going to leave you with: If you
13 work hard for something and you follow all the rules, you
14 deserve to get what you earned. If you're a scout and you
15 follow the rules to earn a badge, it's not fair to not give
16 you that badge. You earned it. It doesn't matter if someone
17 doesn't want to give it to you; you earned it.

18 The third thing I want to leave you with: Oklahomans are
19 a good, fair people. I have no doubt about that. Rachel
20 knows it to be true too. But sometimes you come across a few
21 bad apples, folks who don't want to follow the rules, who just
22 don't want to be nice to people who are different.

23 Rachel is depending on you all this week to be good and
24 fair people. She's depending on you all to do the right
25 thing, to stand up and right a wrong.

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1 The last thing I want to leave you with: The government
2 over there is going to try to whisper to you a lot during this
3 trial. They're going to try to get you to overlook evidence,
4 to think bad things about Rachel, not because of what kind of
5 worker she is, not because of what kind of professor she is.
6 All the evidence shows that she is a great person, great
7 professor.

8 They're going to try to tilt you in their direction
9 because her differences show. They're counting on you to not
10 like transgender people. They're counting on you to overlook
11 a whole lot of things in a mountain of evidence. They're
12 betting on it.

13 Well, ladies and gentlemen, I'm betting that you aren't
14 going to look the other way. I am betting that you take this
15 seriously, that you will do the right thing, and that you are
16 going to give Rachel Tudor the fair shake that Southeastern
17 denied her so many years ago.

18 I have faith in you all. Thank you.

19 THE COURT: Ms. Coffey?

20 MS. COFFEY: Ladies and gentlemen, we've all heard
21 the story of the little shepherd boy who cried wolf. He
22 wanted attention, he wanted excitement, so he cried wolf. But
23 there was no wolf. The people came to his aid, but they soon
24 discovered there was no wolf. They became wise to his games.
25 And, in the end, the shepherd boy had to live with the

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1 consequences of his actions.

2 For five years Rachel Tudor was at Southeastern with no
3 claims. She never cried wolf. But then, after she rejected
4 the wise counsel of her dean, a vice president, and the
5 president, after she rejected the offer that Southeastern gave
6 her to further her career at Southeastern and to obtain
7 tenure, after she was denied tenure, she cried wolf. And she
8 cried and cried wolf, but there was never any wolf.

9 We're not here today because of transgender
10 discrimination; we're here because Dr. Tudor simply did not
11 want to earn her tenure. When she was faced with the
12 likelihood of tenure denial, she refused to take the -- to
13 take advantage of the opportunity that Southeastern gave her,
14 to have more time so that she could strengthen her tenure
15 application and obtain tenure.

16 Two well-respected tenured professors -- Dean Lucretia
17 Scoufos and Vice President Doug McMillan -- both individually
18 reviewed Dr. Tudor's portfolio, both determined it was
19 deficient in two areas: scholarship and service.

20 So, as a result, both of them recommended that she be
21 denied tenure. Nobody told her that she would never get
22 tenure. In fact, it was just the opposite. She was told that
23 she needed more time. She needed more time to earn her
24 tenure.

25 So in April of 2010, President Minks, a long-time

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1 academian [sic] and president of Southeastern Oklahoma State
2 University, he was faced with the decision of denying Rachel
3 Tudor tenure. And if he denied her tenure, he would deny her
4 career. And he didn't want to do that.

5 So he created a scenario in which she would be given the
6 opportunity for more time, because, in order to improve in
7 these two areas of scholarship and publication, you need more
8 time than the five months that Dr. Tudor would have between
9 this April 2010 and the next year's tenure process.

10 It takes a long time to obtain publications. It takes a
11 long time to write. It takes a long time to get published.
12 To increase your service, which is service to the Southeastern
13 community, it takes a long time to get involved in committees
14 and to make a difference there on campus. So, therefore,
15 Dr. Minks wanted her to have more time. But in order to do
16 it, she had to agree to withdraw her tenure application,
17 because, if she wouldn't withdraw it, he would have no choice
18 but to deny it.

19 Now, Southeastern had a policy that was the norm around
20 the country with colleges and universities. Anybody could
21 withdraw a tenure application at any place during the process.
22 However, if you were to allow it to go to the very end and the
23 president ultimately denied tenure, you're done. You had no
24 other opportunity to reapply for tenure.

25 And that is what Southeastern was trying to avoid with

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1 Dr. Tudor. Her dean, Lucretia Scoufos, presented the
2 president's offer to Dr. Tudor. She told her it was a gift.
3 Had Dr. Tudor taken that gift, she would have had the ample
4 time and the resources that Southeastern was willing to give
5 her so that she could obtain her career goal of tenure.

6 So the evidence is going to make you question, why would
7 she turn it down? There's really no justifiable reason except
8 that she wanted a fight. And the problem is, she placed her
9 fight in front of her career. And, as a result, she has no
10 career today. And because she has no career today, she will
11 ask you at the conclusion of this trial to award her money.

12 You'll hear evidence that she never takes responsibility
13 for her actions -- for her own actions. Dr. Tudor just
14 doesn't do it. She won't take responsibility for submitting
15 two deficient portfolios in years 2008 and 2009. She won't
16 take responsibility for that.

17 She won't take responsibility for not following the
18 tenure advice given to her by her department colleagues. And
19 she won't take responsibility for turning down the significant
20 opportunity that Southeastern gave her so that she could
21 obtain tenure.

22 She won't take responsibility for losing a subsequent
23 job. She sits here today, she's not writing, she's not
24 working, she's not publishing. And she blames it all on
25 transgender discrimination.

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1 You may hear faculty members that -- I'm sorry.

2 You may hear faculty members testify that they disagree
3 with some of the decisions made by Southeastern's
4 administration. That's no surprise. It happens everywhere in
5 colleges and universities. It happens in every workplace,
6 lots of disagreements, disagreements on tenure decisions.

7 You won't hear evidence that this was the only instance
8 in which a dean or anybody else at the administrative level
9 disagreed with a recommendation from a tenure committee or
10 from a department chair. It didn't happen all the time, but
11 it certainly happened at various times. And Rachel Tudor's
12 situation was no exception.

13 You may hear that faculty members think that she was
14 qualified in 2009 to obtain tenure, but you will see and you
15 will hear the evidence of why she wasn't qualified. You will
16 see the tenure letter that she submitted in support of her
17 application. Nobody that was serious about wanting to obtain
18 tenure would submit in their support a letter that goes on and
19 on about the merits of a department secretary and why it was
20 so sad and unfortunate that that department secretary couldn't
21 apply for tenure.

22 You heard Dr. Tudor's counsel tell you in his opening
23 statement how she was a rule follower, how this was so
24 important to her, how she documented this trail.

25 Dr. Tudor's 2009 application couldn't have been very

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1 important to her because she didn't save it. You will not see
2 in this courtroom all week -- you will never see a complete
3 2009 portfolio. At Southeastern, once somebody applies for
4 tenure and the tenure process is over, the portfolio is
5 returned to the professor. So Southeastern didn't have a
6 copy. Dr. Tudor didn't have a copy. She piecemealed what,
7 from her recollection, was her portfolio.

8 The tenure witness that her counsel told you about, he'll
9 be in later this week. And he's going to tell you that he
10 reviewed an incomplete 2009 portfolio application, and, based
11 on that incomplete portfolio, he believed she was really
12 qualified.

13 Against the advice of her English department colleagues,
14 Dr. Tudor chose to submit her tenure application in 2008. And
15 that committee voted. They voted 5 to 0 against recommending
16 tenure for Dr. Tudor.

17 And several of them -- maybe not several. Some of them
18 had told her before she submitted it not to submit it. She
19 knew she shouldn't submit it. She knew she didn't meet the
20 qualifications, but she submitted it anyway in hopes that the
21 fact that she had transitioned a year ago might be the
22 motivating factor for her colleagues to vote to recommend
23 tenure for her. But it didn't work.

24 For the 2009 tenure process, Dr. Tudor set the backdrop
25 early to cry wolf. Before her tenure committee was even

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1 appointed, she went to her dean. She talked with her dean
2 about what the requirements were for her portfolio, what would
3 be -- what would give her strengths.

4 She also, though, during that meeting, accused Dr. Lisa
5 Coleman of transgender discrimination. Dr. Lisa Coleman is a
6 tenured, well-respected professor in the English department at
7 Southeastern. She's open-minded, she's liberal, and Dr. Tudor
8 accused her of transgender discrimination. And why? She
9 specifically asked that Dr. Coleman not be placed on her
10 tenure review committee.

11 The evidence will be that there was no base, no base
12 whatsoever, for those accusations. And Dr. Tudor never even
13 apologized to Dr. Coleman for making these meritless
14 accusations.

15 Dr. Tudor also accuses Cathy Conway, the HR director that
16 plaintiff's counsel mentioned. She accuses her of transgender
17 discrimination. This was all based on a single phone call in
18 June of 2007 soon after Ms. Conway heard of Dr. Tudor's
19 transition. Cathy Conway will testify that everything she did
20 in dealing with Dr. Tudor was to help Dr. Tudor ease her
21 transition, to do what was best for Dr. Tudor. She'll tell
22 you that she dealt with kindness and with empathy for
23 Dr. Tudor.

24 She was highly trained in affirmative action and in
25 compliance and employment laws. She will tell you that, when

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1 she learned Dr. Tudor was transitioning, her concern was how
2 this would affect Dr. Tudor.

3 She dealt with her fairly. And in their 2007 phone call,
4 there was no discussion of dress. There was no discussion of
5 makeup. There is not a single document you will see that was
6 ever submitted to Southeastern to suggest what plaintiff's
7 counsel mentioned. Cathy Conway will tell you that was never
8 even brought up. I mean, it's a college campus. Seriously?

9 She will tell you they talked about the bathroom issue.
10 It was a significant issue because she brought it up with
11 Dr. Tudor and Dr. Tudor seemed concerned in this one phone
12 call. So they talked about the various options.

13 Before she had called Dr. Tudor, she had asked about
14 whether there were other -- whether there were single-stall
15 bathrooms on campus, single-stall unisex bathrooms that
16 anybody could use. And she gave that option to Dr. Tudor in
17 that phone call. There was no requirement, there was no
18 mandate; it was just an option as to what Dr. Tudor would feel
19 comfortable with.

20 They ended the phone call on a really good note. There
21 was no threat of "You must live by these conditions in order
22 to stay at Southeastern." And you'll see the evidence doesn't
23 support that claim that you heard during opening. They ended
24 it on a good note, and Dr. Tudor thanked Cathy Conway for her
25 professionalism.

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1 Cathy Conway will tell you that at no time after this one
2 call in June of 2007 did she ever hear another word from
3 Dr. Tudor, no complaints, no whimper of any problems she was
4 having with her transition.

5 Dr. Tudor will tell you that she has silently suffered
6 these horrendous conditions at Southeastern, but there is no
7 evidence of it. Nobody will testify that they observed
8 anything. If that had really happened, Dr. Tudor would have
9 complained.

10 Now, she's going to tell you -- she's going to ignore
11 that Cathy Conway will tell you that she specifically told
12 Dr. Tudor about Southeastern's discrimination policy and
13 southeastern's sexual harassment policy. And she did it so
14 that if Dr. Tudor had any of these problems, she would know
15 how to address them. And she never did.

16 But if that really had happened, Dr. Tudor would have
17 complained. She filed at least three grievances and two
18 discrimination complaints while she was at Southeastern. She
19 claimed racial discrimination because of her Native American
20 heritage. She claimed gender discrimination because she's
21 female. And she claimed transgender discrimination. But she
22 never complained of these supposed hostile work environments
23 because they just didn't exist. After several years of
24 investigation, two and a half years of litigation, there is
25 still no evidence of discrimination.

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1 Dr. Tudor sits here today without a job and without
2 tenure but not because of transgender discrimination, simply
3 because she did not want to earn her tenure. She did not want
4 to take advantage of the opportunity that Southeastern gave
5 her.

6 What is a university if it is not a place that fosters
7 ideas, encourages personal growth, encourages difference,
8 supports change? That was the campus of Southeastern. That
9 is the environment that Rachel Tudor worked in. Southeastern
10 gave her an opportunity to accomplish -- to work in that
11 environment and to accomplish her career goal, and she simply
12 refused and cried wolf.

13 So at the end of this trial, ladies and gentlemen, I will
14 ask that you find in favor of our defendants, Southeastern
15 Oklahoma State and the Regional University System of Oklahoma.

16 Thank you.

17 THE COURT: Plaintiff, call your first witness.

18 MR. YOUNG: Dr. Rachel Tudor.

19 (Witness duly Rachel.)

20 THE COURT: Be seated.

21 WHEREUPON, RACHEL TUDOR, Ph.D., after having been first
22 duly sworn, testifies in reply to the questions propounded as
23 follows:

24 **DIRECT EXAMINATION**

25 BY MR. YOUNG:

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1 Q. Good morning, Rachel.

2 A. Good morning.

3 Q. Okay. So I know that you're a quiet speaker, so I'm just
4 going to remind you, if I can't hear you, I'm going to tell
5 you to lean a little bit forward. Okay?

6 A. Okay.

7 Q. Thank you.

8 Rachel, can you tell me a little bit about what you loved
9 about Southeastern?

10 A. There are so many things. I really loved the students
11 because they reminded me of me when I was a student. Many of
12 them came from the same background that I came from. Many of
13 them were the first in their families to attend college. They
14 had families who sacrificed, as my family did, so that they
15 may be able to attend college. They wanted nothing more than
16 their families to be proud of them.

17 And I really enjoyed helping them reach their goals and
18 attending graduation, seeing their families smiling, proud of
19 their accomplishments.

20 I really loved working with my colleagues. They're some
21 of the best people I've ever known in my life. They're very
22 wonderful and supporting friends.

23 Q. Can you tell me about your favorite class that you taught
24 at Southeastern.

25 A. I enjoyed teaching all of my classes. I particularly

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1 enjoy teaching Early Humanities, I would say.

2 Q. Is there a particular reason why you loved Early
3 Humanities?

4 A. Many of my favorite books come from that period; for
5 instance, Homer's Odyssey and the Iliad.

6 Q. Okay. Well, I wasn't a huge fan of the Odyssey when I
7 read it, but is there something in particular that you loved
8 about teaching the Odyssey?

9 A. Yeah. It's actually become more meaningful, perhaps
10 sustaining for me, because it's the story of a person,
11 Odysseus, trying -- his long journey home and the many
12 obstacles and difficulties that he has to overcome to make his
13 way home.

14 Q. Is there something in particular that you loved about
15 teaching the Iliad?

16 A. Oh, yes. A lot of -- I think perhaps some people's view
17 of the Iliad may be colored by the film "Troy" and that. They
18 may think of it as a war story or a story about vengeance, but
19 it's really a story about love is more important than
20 vengeance and the strength of love over vengeance.

21 And that's -- it's particularly meaningful for me because
22 I really -- I think of Southeastern as my home. And the love
23 I have for my friends and the students, that is what's
24 important to me. And the Iliad inspiration because it's --
25 it's a very poignant example of the -- of the power of love

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1 over vengeance.

2 Q. Rachel, is this lawsuit for you about vengeance?

3 A. No, not at all.

4 Q. What is this lawsuit about for you?

5 A. It's about doing the right thing. It's about fairness
6 and justice. It's about giving me a chance to contribute and
7 to give back to so many who have made my accomplishments
8 possible.

9 Q. Rachel, I'm going to take you back. When did you first
10 start working at Southeastern?

11 A. In the fall of 2004.

12 Q. Okay. What was your job title when you were hired?

13 A. Tenure track assistant professor.

14 Q. Okay. Can you explain to us all what exactly being on
15 tenure track means.

16 A. It means that all of your work is part of a process, with
17 the end goal being tenure.

18 Q. Do all of the folks who teach at Southeastern, are all of
19 them on tenure track or tenured?

20 A. Not all of them.

21 Q. Okay. So is it significant if someone is hired on tenure
22 track?

23 A. Yes, it's very significant.

24 Q. Okay. Can you explain to us all in your own words -- and
25 I know that there's a technical meaning, but just in your own

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1 words so we can all understand -- what exactly is tenure?

2 A. It's a promotion based on merit.

3 Q. Okay. Now, Rachel, we're obviously all here today
4 because you went through a gender transition. So I need to
5 ask you some questions.

6 Can you explain in your own words why you went through a
7 transition in 2007.

8 A. Because it's who I am. I'm Rachel Tudor. I'm a woman.

9 Q. Was it hard having to tell people in your life that you
10 were going through that gender transition?

11 A. Well, you never know how someone is going to react. So
12 there's some anxiety. No one wants to lose friends or have
13 anyone think poorly of them or -- so there is some anxiety,
14 but I have to say my colleagues in my department and my
15 students, they were very welcoming and accepting.

16 And it's one of my best memories at Southeastern, is how
17 warm and accepting they were.

18 Q. Now, when you went through this gender transition in
19 2007, were there any other transgender professors at
20 Southeastern?

21 A. No.

22 Q. To your knowledge, have there, since you -- outside of
23 you, have there ever been any transgender professors at
24 Southeastern?

25 A. No.

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1 Q. What about any other worker at Southeastern, any person
2 employed at Southeastern, out as transgender?

3 A. No.

4 Q. So you were the first?

5 A. Yes.

6 Q. At the time you were there, had you ever heard of there
7 being any transgender students at Southeastern?

8 A. At the time, no.

9 Q. So it was just you?

10 A. Yes.

11 Q. How did that feel?

12 A. I tried not to make a big deal of it. I just wanted to
13 do my job. And I think that I had proved myself. I had
14 several years of service there. And I had earned the respect
15 of my colleagues and my students. They allowed me to continue
16 and be welcome.

17 Q. Can you explain to us all how you went about telling the
18 Southeastern administration you were going to go through this
19 gender transition?

20 A. Yes. I gave a letter from my therapist to human
21 resources.

22 Q. Okay. What happened after that?

23 A. I received a call at home in the -- later in the evening,
24 which was very unusual. That's simply not the way things are
25 normally done.

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1 Normally, if -- say, for instance, somebody from HR
2 wanted to visit with a professor about something, they would
3 e-mail us and then would schedule a time to meet either at the
4 HR offices or in our offices. So to receive a phone call at
5 home in the evening was very unusual. And I was very anxious
6 about -- to receive such an unusual phone call under unusual
7 circumstances as that.

8 Q. So who was it that called you?

9 A. Cathy Conway.

10 Q. Okay. Can you tell me a little bit about what was said
11 during that call?

12 A. She told me that Doug McMillan, when he discovered that
13 I'm transgender, that he wanted to summarily fire me. And she
14 told me that she told him that he couldn't do that. And she
15 told me that if I agreed to follow certain rules, that I would
16 be allowed to continue to work at Southeastern.

17 Q. I take it from your voice it was a hard phone call?

18 A. It was -- it was not pleasant. It was frightening. I
19 had -- before that phone call, I had -- I had no idea that I
20 might lose my job because simply being here I am. I thought
21 maybe some people may not like me or that -- you know,
22 something like that.

23 But I had -- it was very frightening to be confronted at
24 home in a phone call late at night from the head of H.R. and
25 told that the vice president of academic affairs wanted to

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1 summarily fire me. That was truly frightening. That's how
2 I'd describe it.

3 Q. I'm going to ask you a few more questions about that
4 call, but it comes to me now that she probably explained what
5 exactly the vice president for academic affairs is to a
6 professor.

7 So what is that position?

8 A. That's a very important position. For example, whenever
9 the president is off campus, he's acting president. He has a
10 great deal of authority and power on the campus.

11 So when the president is not there, he acts as the
12 president. So it's a very powerful position.

13 Q. And in the, I guess, Southeastern hierarchy, are
14 professors under the vice president for academic affairs?

15 A. Yes, we are.

16 Q. Okay. Now, I'm going to ask you a few more questions.
17 You mentioned that Cathy Conway brought up some rules.

18 Can you take me through those rules a little bit?

19 A. Yeah.

20 Q. Okay.

21 A. She said that I was not allowed to use the women's
22 restroom.

23 She -- I'm so sorry. I have such a bad cold. That's why
24 I have the cough drops. I'm really sorry.

25 Q. That's okay, Rachel.

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1 A. That I wasn't allowed to use the women's restroom, that I
2 could only use the single-occupant restroom. That was on the
3 second floor of the building I work in, which is Morrison.

4 She also talked about my appearance, the clothes -- my
5 clothes and makeup, for instance.

6 Q. Okay. I'm going to take you through those three rules
7 one by one. Okay?

8 A. Okay.

9 Q. So about the restrooms. So Cathy Conway told you that
10 you couldn't use the women's restroom?

11 A. Correct.

12 Q. And what was the restroom that you were supposed to use?

13 A. So single-occupant restroom on the second floor.

14 Q. Okay. So what building did you teach your classes in?

15 A. Morrison.

16 Q. Okay. And the restroom is in Morrison?

17 A. Yes.

18 Q. Was it on the same floor where you taught classes?

19 A. I taught my classes on the third floor. That's where the
20 English department offices are as well.

21 Q. Is that where your office was?

22 A. Yes.

23 Q. Were there women's restrooms on that floor?

24 A. Yes.

25 Q. Were there men's restrooms on that floor?

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1 A. Yes.

2 Q. Okay. Did you ever teach classes in a building other
3 than Morrison after your gender transition?

4 A. Yes.

5 Q. Was there a bathroom in that other building that you
6 could use?

7 A. Not to my knowledge.

8 Q. Okay. What was it like to work at Southeastern with that
9 type of restriction on your restroom use?

10 A. It was -- it was humiliating. It was -- there are some
11 practical difficulties. For instance, in the morning, I often
12 taught back-to-back classes all morning long, sometimes from
13 9:00 until noon, and I'd only get a 10-minute break between
14 classes.

15 So by the time I made it down to the second floor, if
16 there was somebody in there, I may not be able to use the
17 bathroom until after my next class.

18 And there's -- and if there's someone else -- an occupant
19 in it then, it may -- I may not be able to use the restroom
20 all morning long.

21 Q. Did you change anything about your routines to deal with
22 this?

23 A. Well, I've never been a big coffee drinker. I know that
24 coffee -- a lot of people have to go to the bathroom after
25 drinking coffee, but I did enjoy orange juice with my

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1 breakfast, and I had to cut that out because orange juice made
2 me -- I needed to use the restroom after having orange juice.
3 I had to cut down on just the amount of fluids in general that
4 I consumed.

5 Q. So you had to plan your workday around how much liquid
6 you drink?

7 A. Well, I had to -- well, it affected my -- yes. It was
8 part of my -- before, I would usually carry a bottle of water
9 to class, because talking and lecturing and answering
10 questions for an hour or so at a time, and you had to take
11 sips of -- before, I used to drink maybe a whole bottle of
12 water through the morning.

13 So I had to -- you know, I couldn't do that so much. So
14 I was -- there was -- it was -- there was accommodations I had
15 to make to my work in order to follow the rules about the
16 restroom.

17 Q. Have you ever used a women's restroom at Southeastern?

18 A. No, I never did.

19 Q. Never?

20 A. Never.

21 Q. During this same time period, I guess, between 2007, when
22 you transitioned, and 2011, when you left, when you weren't at
23 Southeastern, you were at a shopping mall or, I don't know,
24 not a coffee shop because you don't drink coffee, but just
25 out, what restroom did you use?

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1 A. I use the women's restroom.

2 Q. Were there ever any problems?

3 A. I've never had any problem in my life using a women's
4 restroom.

5 Q. So when you were out about Durant, where Southeastern is,
6 you used the women's restroom, so long as you weren't on
7 campus?

8 A. As long as I wasn't on campus, correct.

9 Q. No one complained?

10 A. No one ever complained.

11 Q. Okay. Let's talk about these other rules. Let's try to
12 make this a little more efficient. We'll talk about the
13 makeup and clothing together.

14 Can you tell me a little bit about what Cathy Conway told
15 you about your makeup and clothing?

16 A. She talked about the length of my skirts or dresses,
17 about -- and about my makeup.

18 She said -- it was rather vague, but I -- in general, I
19 think that she was concerned that I not look like -- I hate to
20 use the word "drag queen," but that's not me. I'm just an
21 English professor. I'm just, you know, a woman.

22 Q. So did you complain about these rules -- the restroom,
23 makeup, and clothing -- right away?

24 A. No, no.

25 Q. Can you tell me why?

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1 A. It was quite frightening to get that phone call at home
2 at night telling me that Doug McMillan would like to see me
3 summarily fired and then be told by the head of human
4 resources that I had to follow these certain rules.

5 I really love my job, and I was afraid to complain. Who
6 would I complain to? These are very important, powerful
7 people.

8 Q. Did you feel comfortable after this to complain to Cathy
9 Conway about the rules she imposed?

10 A. No.

11 Q. Why --

12 THE COURT: Let me stop you here. We're going to
13 take our midmorning break. I will instruct you not to discuss
14 the case or permit others to discuss it with you. Don't be in
15 a position to overhear conversations regarding the case.

16 To make that instruction easier for both you and all
17 participants in the trial, I'm going to ask you to take your
18 break in the -- what will ultimately be your jury deliberation
19 room. You don't have to stay there. You can go anywhere you
20 want to, but try to avoid that front hall so -- everyone else
21 can use those restrooms and congregate there.

22 The elevators are the same no matter which hall you're
23 on. So everyone in the courtroom, please be careful about
24 what you say around the elevators.

25 I'll ask you to be back in the jury assembly room -- our

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1 totally unnecessary security prevents you from getting back
2 into this hallway once you leave. So we will need to --
3 someone will need to pick you up down there and get you back
4 into this hallway. If you stay there and don't go anywhere,
5 just stay there.

6 But wherever you are, please be back at 20 till. We'll
7 be in recess until then.

8 I need to see counsel at the bench, I guess, before the
9 jury leaves.

10 (The following proceedings were had at the bench and out
11 of the hearing of the jury.)

12 THE COURT: In this courtroom, everyone is referred
13 to by an honorific. Dr. Tudor, Ms. Tudor, Judge Tudor,
14 whatever you want to call her, but not Rachel. That goes for
15 every witness, every lawyer, everyone else.

16 This is painful. You need to get in, get the facts you
17 want to get, and get out. I always give anyone a little
18 leeway in getting some background from the witness or a party,
19 10 or 15 minutes, to learn who you are, where you're from.

20 You've done that with the Iliad and the Odyssey. So, you
21 know, we need to be relevant, we need to be efficient, and we
22 need to be in recess.

23 MR. YOUNG: Yes, Your Honor.

24 MS. COFFEY: Thank you, Your Honor.

25 (The following proceedings were had in open court with

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1 all parties present and within the hearing of the jury.)

2 (In recess from 10:21 a.m. to 10:45 a.m.)

3 (Jury enters.)

4 THE COURT: Be seated.

5 Please continue.

6 MR. YOUNG: Thank you, Your Honor.

7 Q. (BY MR. YOUNG) Dr. Tudor, before the break, we were
8 talking about some rules that you were given by Cathy Conway,
9 just to refresh your memory.

10 At any point did any of your colleagues in the English
11 department complain to you about your transition?

12 A. No. I never heard any complaints.

13 Q. What about any of your students or former students?

14 A. No, no complaints whatsoever.

15 Q. At any point in Southeastern were you ever apprised of a
16 complaint about you?

17 A. No.

18 Q. Okay. Dr. Tudor, when did you first -- when did you
19 first start to prepare to apply for tenure?

20 A. Tenure track professors start preparing as soon as they
21 start working. All of our work is counted toward our --
22 toward tenure.

23 Q. Okay. Are there particular areas that a professor is
24 evaluated in for tenure?

25 A. Yes. Teaching, scholarship, and service.

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1 Q. I'm going to take you to those -- back through those one
2 by one. Okay?

3 Can you tell me what sort of things one would do to
4 demonstrate good teaching?

5 A. Yes. Design courses, effectively teach those courses,
6 get feedback from peer reviews. That's when our colleagues
7 would come and visit our classroom and evaluate how well we're
8 teaching. There's student evaluations as well.

9 Q. What sort of things would someone do to demonstrate good
10 scholarship?

11 A. Publish articles, submit articles for publication,
12 presentations at academic conferences, creative work such as,
13 in my case, open mic chatbook, which is poetry that's meant to
14 be performed orally, and visual art.

15 Q. Okay. Can you tell me a little bit about what goes into
16 writing a scholarly article?

17 A. It takes -- first, it takes many years of preparation,
18 studying -- graduate degrees in literature, a Ph.D. in your
19 specialization. It takes years of working with leading
20 scholars in the field getting feedback, submitting work,
21 editing the work.

22 It's a profession. It takes many years of practice,
23 engagements, study, research.

24 Q. So could a professor just sit down at their kitchen table
25 one day and just write an article?

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1 A. No. That's not the way it works.

2 Q. I think the last thing you talked about was service. Can
3 you tell me what sorts of things one would do in the area of
4 service?

5 A. Yes. We would serve on committees within our department
6 and also university-wide.

7 We would serve on committees such as the Native American
8 Symposium committee, which I was pretty much involved in.
9 Serve, for instance, in the faculty senate. For instance, I
10 served in the faculty senate on the personnel policies
11 committee, also on the planning committee.

12 Q. What's the Native American Symposium?

13 A. It's the -- it's the premiere conference at Southeastern.
14 Actually, it is their only conference. It's a regional
15 conference. We'd have scholars from all over the country,
16 even the world, attend, and students are also active
17 participants in it. It's a -- it's also -- we also invite the
18 community. It's how Southeastern contributes to our community
19 and to scholarship.

20 Q. Okay. So I'm going to talk to you a little bit about the
21 2009-10 application process.

22 So can you tell me just generally, when does a tenure
23 application start in the school year?

24 A. Well, we notify our dean and department chair in the very
25 early part of the fall semester.

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1 Q. Okay. So who did you notify in the early 2009 tenure
2 application process?

3 A. I notified Dean Scoufos and my department chair, John
4 Mischo.

5 Q. Did you meet with Dean Scoufos?

6 A. Yes. All tenure applicants are required to meet with the
7 dean.

8 Q. Can you tell me a little bit about your meeting with Dean
9 Scoufos?

10 A. Yes. I was -- I was hoping to get some feedback on my
11 portfolio. That's what we were -- that's what we were
12 supposed to go over during the meeting, and asked her a lot of
13 questions, but, unfortunately, I didn't get a lot of answers.

14 Q. Dr. Tudor, can you explain to the jury what the purpose
15 of the meeting with the dean is?

16 A. Yes. It's to help the candidate succeed in their tenure
17 application.

18 Q. So what is the dean supposed to do during a meeting like
19 that?

20 A. Supposed to give -- well, supposed to answer the
21 questions a candidate has and give some concrete and specific
22 feedback in the construction and content of the portfolio.

23 Q. Was there anything odd about this meeting to you?

24 A. Yes. As I said, I asked quite a few questions, and I
25 didn't -- I didn't receive the answers that I needed to my

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1 questions.

2 Q. Did you bring up any concerns to Dean Scoufos during this
3 meeting?

4 A. At some point, Dean Scoufos asked who I'd like to be on
5 my meeting, and I mentioned some names, as well as a concern
6 that I -- well, I was asked if there was anybody perhaps I may
7 not want on the committee.

8 I said I had a concern, but it's just a concern, that
9 perhaps one -- perhaps one of my colleagues may not -- that
10 may not be comfortable. That was Lisa Coleman.

11 Q. Was there a reason why you thought Lisa Coleman might not
12 be comfortable?

13 A. It turns out it was just a misunderstanding, a
14 miscommunication, and we worked it out.

15 As a matter of fact, she wrote an outstanding letter for
16 my -- for a subsequent portfolio recommending me for tenure.

17 Q. Okay. But you told Dean Scoufos that you were concerned
18 about Coleman. Yes?

19 A. Yes, I had a concern.

20 Q. Do you know what Dean Scoufos did with that concern?

21 A. I found out later, when I talked to my department chair
22 about who would actually be on my committee, I found out that
23 Dean Scoufos had placed Lisa Coleman as the chair of my tenure
24 committee.

25 Q. Dr. Tudor, can you explain to the jury what the

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1 significance of being the chair of the committee is?

2 A. The chair is the person responsible for directing the
3 committee members, the tenure committee members, their
4 activities. It's like the head of a department, a manager, a
5 team leader, a very important and formative role on the
6 committee.

7 Q. Okay. To your knowledge, did Dean Scoufos ever talk to
8 Lisa Coleman about your concern?

9 A. Not to my knowledge.

10 Q. So the only thing that Dean Scoufos did was make Lisa
11 Coleman the chair?

12 A. Correct.

13 Q. Dr. Tudor, can you explain very generally to the jury
14 what a tenure portfolio is.

15 A. A tenure portfolio is a collection of evidence
16 documenting the worthiness of a candidate for tenure.

17 Q. What is a tenure portfolio? How is it composed? Is it
18 in a binder? Is it loose documents?

19 A. It's in a binder with specific sections.

20 Q. Okay. Can you tell me, just very generally, some of the,
21 you know, kinds of -- like, the pieces of paper that would go
22 in a tenure portfolio? What goes in it?

23 A. Yes. Our CV, which is a -- a CV is a very detailed
24 résumé. It's many, many pages in length. Also, a cover -- a
25 cover letter. It would also have copies of letters of

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1 recommendation, for instance, from my colleagues and peers.
2 It would also contain copies of articles that had published.
3 It would contain programs where I have made presentations at
4 conferences. Mine contained evidence of my open mic chatbook.
5 For instance, it would contain student evaluations and peer
6 evaluations.

7 Q. So Dr. Tudor, your 2009-2010 portfolio, did you include
8 evidence of the three criteria: teaching, scholarship, and
9 service?

10 A. Yes, I did.

11 Q. Did you yourself put together that portfolio?

12 A. Yes, I did.

13 Q. Do you remember how long it took you to put that
14 together?

15 A. It's a very time-consuming process, gathering all of
16 those materials, asking for letters of reference, revising my
17 CV, et cetera, composing my cover letter. It's -- it's -- it
18 would have been weeks.

19 Q. Okay. I'm going to touch on something very briefly, and
20 then we'll move on.

21 Dr. Tudor, during defendants' opening, they mentioned
22 that you wrote a cover letter where you talked about the
23 department secretary.

24 A. Yes. Theresa Anderson.

25 Q. Can you tell the jury why you talked about Theresa

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1 Anderson?

2 A. Yes. She's a department secretary. She was -- that
3 title really doesn't say the service that she rendered to the
4 department.

5 She was the reason why we could all do our jobs. She
6 kept the trains running on time. And she had been there for
7 many years, and I had -- her office is right next to mine. I
8 had the highest degree of respect for her. And I did allude,
9 in my cover letter, that I wished there was an option for her
10 to be tenured as well so she could have that type of security.

11 It was -- I did not mean to be disrespectful to the
12 process. It was purely out of my respect and admiration for
13 her work and her contributions to our department.

14 And I really do wish there was some sort of policy at
15 Southeastern so -- so people like Theresa Anderson could have
16 the same type of security that professors do.

17 Q. Okay. Dr. Tudor, just one clarification. As to your
18 scholarship, did you continue to work on scholarship
19 throughout the 2009 application process after you put together
20 that, what I assume, is a very big portfolio?

21 A. Yes, I did.

22 Q. Okay. Can you explain sort of why someone continues to
23 work on scholarship?

24 A. Yes. Because tenure, it's -- well, it's awarded for your
25 cumulative work. And I -- I love scholarship. I love

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1 research and writing, even -- I would continue no matter what.
2 I just love learning.

3 Q. Off the top of your head, how many articles have you
4 written, scholarly articles?

5 A. Approximately a dozen.

6 Q. Okay. So after you meet with Dean Scoufos, who did you
7 meet with next?

8 A. My department chair, John Mischo.

9 Q. Do you remember what was said during that meeting, more
10 or less?

11 A. Yes. He examined my portfolio and handed it back to me.
12 He seemed -- he seemed pleased with the composition of the
13 portfolio.

14 Q. Okay. Does a department chair have a special role in the
15 tenure application process?

16 A. Yes. The department chair gets a vote.

17 Q. Okay.

18 A. And the department chair also allows the process to move
19 forward.

20 Q. So what happened after meeting with John Mischo? What
21 was the next step in the process?

22 A. I gave my portfolio back to John to give to the tenure
23 committee.

24 Q. Okay. When about did you learn what the tenure committee
25 did on your portfolio?

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1 A. Right before the Christmas break.

2 Q. How did the tenure committee vote?

3 A. The tenure committee voted to award me tenure.

4 Q. How did that feel?

5 A. It was like the best Christmas gift ever. I was -- I
6 was -- I was -- it was -- it's hard to explain. It's
7 something that I worked for my entire -- entire life. And
8 it's -- however hard I worked for it, actually having it -- I
9 mean, actually the anticipation of having it at hand, it was
10 surreal. It was -- it was just, as I said, the best Christmas
11 ever.

12 Q. Was getting tenure going to change your life?

13 A. Yes. And not only -- and more importantly, not only my
14 life, but my family made quite substantial sacrifices to help
15 me get my education, especially my oldest sister. And I
16 wanted to help her also to get a home. And I was thinking --
17 also, I would like to have a home in Durant.

18 Q. Did you start looking for a home?

19 A. Yes. I started looking online at houses near campus. I
20 like living by campus. I could just walk to campus.

21 Q. At this point, when you heard from the department that
22 they were going to award you tenure, had you ever heard of
23 anyone who was granted tenure by the department who didn't
24 ultimately get tenure?

25 A. No. To my knowledge, that had never happened in all of

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1 Southeastern's history.

2 Q. At that point, were you concerned at all that the
3 administrators wouldn't honor the department's decision?

4 A. I had -- I was still hearing the echo from the
5 conversation with Cathy Conway where Doug McMillan said he
6 wanted me summarily fired, but I -- I thought they would
7 follow the rules and the 100-plus-year tradition that
8 Southeastern had of honoring the decision of their tenure
9 committees.

10 MR. YOUNG: Your Honor, plaintiffs exchanged
11 exhibits with defendants during the break that are properly
12 marked. My understanding is, they will object if they have a
13 substantive objection.

14 At this time, I'm going to proffer Plaintiff's Exhibit
15 No. 72.

16 Your Honor, may I approach the witness and hand her --

17 THE COURT: Yes.

18 MR. YOUNG: Thank you.

19 Q. (BY MR. YOUNG) Dr. Tudor, do you recognize Plaintiff's
20 Exhibit No. 72?

21 A. Yes.

22 Q. What is it?

23 A. This is the notification I received from Lucretia Scoufos
24 that she was recommending denying -- denying my application
25 for tenure, as well as -- well, effectively fire me,

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1 recommending that I be given a one-year terminal appointment
2 that would end that year.

3 Q. So you were up for a promotion, and Dean Scoufos wanted
4 to deny it and she wanted you fired?

5 A. Yes.

6 Q. Had you ever heard of something like that happening
7 before?

8 A. No, no. This was -- it was really -- it was shocking
9 and, again, very, very frightening because I had never heard
10 of anyone, not only being denied tenure after the tenure
11 committee had recommended for it, but also to be -- to be
12 terminated like this, for their appointment to be canceled.

13 Q. Can you tell me how you felt when you got that letter?

14 A. I -- I remember -- I remember the very day when I read
15 it. It's one of those events where everything's --
16 crystallizes in your memory, because, after I read this, I was
17 in a state of shock, really.

18 I was -- I read it right before I was scheduled to teach
19 a class. I remember walking past Theresa Anderson's desk into
20 the hallway. And Randy Prus, one of my colleagues, was coming
21 into the office. And he said hi to me. And I couldn't even
22 say hi to him. I was just in a state of shock.

23 And I just look -- I remember the expression on his face
24 because I always say hi to my colleagues when I pass them.
25 I'm never rude like that. But I was -- that was the state of

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1 mind that I had when I received this -- this letter.

2 Q. So did this letter from Dean Scoufos explain why she was
3 recommending that you be denied tenure?

4 A. No, it doesn't explain.

5 Q. What did you do after you got this letter?

6 A. Excuse me if I have a cough drop.

7 I contacted Dean Scoufos via e-mail to ask if she could
8 give me some information, some rationale for why she was
9 denying me tenure, and why she was recommending my
10 termination.

11 Q. What did Dean Scoufos do?

12 A. She said that she did not discuss these things via
13 e-mail, that I should make an appointment with her assistant,
14 Mindy House. And so I did. I contacted Mindy House and made
15 an appointment to speak with Dean Scoufos in person.

16 Q. Okay. And did you meet with Dean Scoufos?

17 A. Yes. And John Mischo, my department chair, he came with
18 me to meet with Dean Scoufos.

19 Q. So can you tell the jury what happened during that
20 meeting.

21 A. Yes. It was very odd, because she had -- she had
22 e-mailed me -- a response to my e-mail saying she didn't
23 discuss these issues via e-mail, that I had to make an
24 appointment with Mindy House to talk to her in person.

25 So my expectation -- and also my department chair's

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1 expectation, John Mischo -- was that we -- was that -- the
2 expectation was we would get an explanation from her about why
3 she was denying me tenure.

4 But, instead, she told us that she -- that she was not
5 going to give us an explanation until after President Minks
6 made his decision.

7 Q. Can you explain to the jury, Dr. Tudor, why it was
8 important -- if Dean Scoufos had denied your application, why
9 you needed to know her rationale at that point in time?

10 A. Yes. If there was something missing from the portfolio,
11 if there was something that I could do to supplement it or to
12 answer any questions she may have if she was confused by
13 something or misunderstood something in my portfolio, I'd
14 hoped that I would be given the opportunity to explain or to
15 understand what was happening because my tenure portfolio
16 would then be going -- would be going to other people to see,
17 and I wanted to correct anything that was correctable.

18 Q. Dr. Tudor, at any point did you learn of any professors
19 at Southeastern who were given the opportunity to make
20 corrections or have a conversation with someone midstream?

21 A. Yes, my colleague, Mark Spencer. I visited with him, as
22 I did with the other colleagues in my office after receiving
23 this notification. And we were all equally shocked.

24 And Mark Spencer encouraged me to talk to --

25 MS. COFFEY: Objection, Your Honor. The witness is

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1 testifying about hearsay. Mr. Spencer can come and testify
2 about their conversation.

3 THE COURT: Do you have an argument this falls
4 outside the hearsay rule?

5 MR. YOUNG: One moment, Your Honor.
6 Excited utterance, Your Honor.

7 THE COURT: Sustained.

8 MR. YOUNG: Okay.

9 Q (BY MR. YOUNG) Why don't we move on, Dr. Tudor.
10 So, at this point, you couldn't get an explanation from
11 Dean Scoufos. What happened next in the tenure process? What
12 was the next step?

13 A. The application would go to Douglas -- Doug McMillan, the
14 vice president of academic affairs.

15 Q. Okay.

16 MR. YOUNG: Your Honor, I'm going to -- may I
17 approach the witness to give her Plaintiff's Exhibit 167?

18 THE COURT: Yes.

19 MR. YOUNG: Thank you, Your Honor.

20 Q. (BY MR. YOUNG) Dr. Tudor, do you recognize Plaintiff's
21 Exhibit 167?

22 A. Yes.

23 Q. What is it?

24 A. This is the notification that I received from Doug
25 McMillan notifying me that he was not recommending me for a

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1 promotion and tenure.

2 MR. YOUNG: Your Honor, may I propose that
3 Plaintiff's Exhibit 167 be admitted into evidence?

4 THE COURT: Any objection?

5 MS. COFFEY: No objection, Your Honor.

6 THE COURT: Admitted.

7 Q. (BY MR. YOUNG) So, Dr. Tudor, does Doug McMillan's letter
8 give you any explanation?

9 A. No, there's no explanation whatsoever.

10 Q. At this point in time, had you ever heard of the vice
11 president for academic affairs not following the
12 recommendation of the department before on a tenure
13 application?

14 A. No. To my knowledge, this had never happened before.

15 Q. What did you do next after you got this letter?

16 A. I contacted Doug McMillan to ask for an explanation.

17 Q. How did you contact Doug McMillan?

18 A. Via e-mail.

19 Q. Did he respond?

20 A. That I needed to set an appointment. And I contacted his
21 assistant to set up an appointment to visit with him as well.

22 Q. Okay. Did you ever have that meeting with Doug McMillan?

23 A. No, I didn't. He canceled it a few -- just a few minutes
24 before it was supposed to occur. He told me that he wouldn't
25 meet with me until after -- after the faculty appellate

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1 committee had reached a decision.

2 Q. Okay. So why don't we help the jury here, Dr. Tudor.

3 At some point, did you file a grievance with the faculty
4 appellate committee?

5 A. Yes, the faculty -- yes, I filed a grievance with the
6 faculty appellate committee.

7 Q. Okay. Let me help the jury again.

8 Did you file more than one grievance with the faculty
9 appellate committee?

10 A. Yes, I did.

11 Q. Okay. So let's talk about the first grievance. When did
12 you file the first grievance?

13 A. When -- after Lucretia Scoufos refused to give me the
14 reasons for denying me tenure, I filed a grievance because the
15 rules state very clearly that an applicant is entitled to an
16 explanation if an administrator disagrees with the tenure
17 promotion committee.

18 And since I had made a good faith effort to get that
19 explanation and she had refused to provide one, my only
20 alternative was to file with the faculty appellate committee
21 to -- to get that explanation, to follow the rules.

22 Q. Do you remember what happened after you filed that
23 grievance? What was the next big thing?

24 A. In reference to the faculty appellate committee?

25 Q. In reference to your tenure process in 2009-10.

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1 Well, let me word this differently.

2 Did you meet with Dean Scoufos in early April 2010?

3 A. Yes. In April, yes, we did.

4 Q. Okay. Can you tell me who was at that meeting?

5 A. Yes. It was, again, John Mischo. John Mischo and I, we
6 were called to a meeting in Dean Scoufos's office, and neither
7 one of us had an idea of what that was about. And when we
8 arrived, Dean Scoufos demanded that I withdraw my application
9 for tenure and promotion.

10 Q. Had you ever heard of such a thing before?

11 A. No, no. It was -- it was a complete surprise. I had no
12 expectation of that ever happening.

13 Q. So in April 2010 at the time of this meeting, was your
14 application still live?

15 A. Yes, it still had not -- I still had not heard from
16 President Minks yet.

17 Q. Okay. And Dean Scoufos asked you to withdraw it?

18 A. I wouldn't say "asked"; it was more in the form of a
19 demand and even a threat.

20 Q. Why did it feel like a demand or a threat?

21 A. Well, at some point, I asked her if -- if the demand to
22 withdraw my application, if this was her idea or if it was
23 Doug McMillan's idea.

24 And, in response, she said that she met with Doug
25 McMillan and also Larry Minks, and the three of them decided

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1 that I should -- decided to demand that I withdraw my
2 application for tenure.

3 And when I requested further explanation, she told me --
4 well, I made mention of the fact that even if -- well, of
5 course, Minks hadn't ruled on it yet, so it made it seem that
6 I still have another year, my seventh year, to apply for
7 tenure. And she said the rules say that you may apply; it
8 doesn't mean that we have to let you apply. And I took that
9 as a threat.

10 Q. Did you fear retaliation?

11 A. Yes. That was -- I felt that if I didn't accede to the
12 demand to withdraw my application, that there would be a
13 retaliation as she had stated.

14 Q. Was there anything that you asked for during that meeting
15 from Dean Scoufos?

16 A. Yes, I asked -- well, she said, in return for withdrawing
17 my application, that, in the following year, I could -- I may
18 be allowed to apply for tenure, and then the year after that,
19 for promotion. And I asked for that offer in writing, asked
20 for it in writing, and she refused to put the offer in
21 writing. And so I feared, under the -- many unusual
22 circumstances that had been happening, that wasn't a
23 legitimate offer.

24 And, also, because, you know, earlier, she had
25 recommended that I be terminated at the end of the year. And

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1 so it was very important to me to get something in writing, to
2 get that offer in writing, so I would have some security, some
3 proof of what had happened in that office. And she refused to
4 put anything in writing.

5 Q. Did you ever explain to Dean Scoufos why you didn't
6 accept her offer?

7 A. Yes. I wrote to her later, and I told her that -- that I
8 couldn't -- I couldn't -- that I didn't view it as a
9 legitimate offer if it wasn't in writing. And she -- and
10 since she refused to put it in writing, I was going to go
11 ahead and let the -- I was not going to withdraw my tenure
12 application.

13 Q. Did Dean Scoufos ever respond to you?

14 A. No. That was the end of that.

15 Q. Okay. What was the next big step in the tenure and
16 promotion process, Dr. Tudor?

17 A. It would go -- it went to President Larry Minks.

18 Q. Do you recall when about you heard a decision from Larry
19 Minks?

20 A. Yes. I believe it was near the end of the semester,
21 perhaps late April. I was notified that he was also denying
22 my application for tenure.

23 MR. YOUNG: Your Honor, may I approach the witness?

24 THE COURT: Yes.

25 MR. YOUNG: Thank you.

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1 Q. (BY MR. YOUNG) Dr. Tudor, I've handed you an exhibit
2 marked Plaintiff's Exhibit 168. Do you recognize this
3 document?

4 A. Yes. This is the notification I received -- this is the
5 notification I received from Larry Minks that he was denying
6 my application for tenure.

7 MR. YOUNG: Your Honor, may I propose that this
8 exhibit be admitted as Plaintiff's Exhibit 168?

9 MS. COFFEY: No objection, Your Honor.

10 THE COURT: Admitted.

11 MR. YOUNG: Thank you.

12 Q. (BY MR. YOUNG) Dr. Tudor, to your mind, was there
13 anything unusual about this letter?

14 A. Yes. It states that Doug McMillan will be giving me
15 his -- President Minks's rationale for denying me tenure but
16 that President Larry Minks would not be giving me that. It
17 would be -- it would be via Doug McMillan.

18 And I thought that was very strange that one
19 administrator would write the rationale for another
20 administrator.

21 Q. At this point in time when you got this letter from Larry
22 Minks, had Doug McMillan ever given you his rationales for why
23 he voted against you?

24 A. No, he had not. And he had also failed to reschedule the
25 appointment that he had promised me after the faculty

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1 appellate committee had reached their decision.

2 Q. Why don't we talk about that, that first grievance with
3 the faculty appellate committee, Dr. Tudor.

4 What did the faculty appellate committee decide?

5 A. The faculty appellate committee decided that Dean Scoufos
6 and Doug McMillan both should follow the rules, that the rules
7 stated that they are obligated to give a candidate for tenure
8 their reasons for denying that application when it goes --
9 particularly when it goes against the decision of the tenure
10 committee.

11 Q. Did Doug McMillan and Lucretia Scoufos comply with that
12 order?

13 A. No. I never received an explanation from Lucretia
14 Scoufos or Doug McMillan for their reasons for denying me
15 tenure that year.

16 MR. YOUNG: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 MR. YOUNG: Thank you.

19 Q. (BY MR. YOUNG) Dr. Tudor, I've handed you Plaintiff's
20 Exhibit No. 30.

21 Do you recognize this document?

22 A. Yes.

23 Q. What is it?

24 A. It is a letter that I received from Charles Weiner, the
25 assistant vice president for academic affairs.

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1 Q. Okay. Can you tell me --

2 MR. YOUNG: Once again, Your Honor, may I propose
3 that this be admitted as Plaintiff's Exhibit 30?

4 MS. COFFEY: I'm sorry, Your Honor. It's just that
5 the way they handed us the exhibits, I'm having difficulty
6 finding the exhibit that they're referring to.

7 I don't see an Exhibit 30, a marked Exhibit 30. I
8 apologize.

9 No objection, Your Honor.

10 THE COURT: Admitted.

11 Q. (BY MR. YOUNG) Now, Dr. Tudor, I want you to tell me very
12 generally about this letter.

13 What does Dr. Weiner say in it?

14 A. Well, he informs me -- and this is the first notification
15 I had of the decision of the faculty appellate committee --
16 that they had decided that Scoufos and McMillan owed me an
17 explanation. He said, however, they're not going to provide
18 that explanation. Instead, McMillan is going to give me
19 Minks's -- the rationale for Minks's decision, but they're not
20 going to give me their reasons.

21 Q. At the time you got this letter, did the things it said
22 in it make any sense to you?

23 A. It was -- it was -- I was -- well, first, I was very,
24 very shocked that they wouldn't honor the decision of the
25 faculty appellate committee.

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1 I'm sorry. It's -- could you please ask that again. I'm
2 not sure if I --

3 Q. Yeah.

4 I mean, at the time you got this letter --

5 A. Uh-huh.

6 Q. -- did you believe that you were entitled to rationales
7 from Doug McMillan and Lucretia Scoufos?

8 A. According to the rules, I did, yes.

9 Q. So did you believe that the rules required that the
10 administration comply with the faculty appellate committee's
11 decision?

12 A. Yes, and so did the faculty appellate committee.

13 Q. When about did you get the letter from Dr. Weiner?

14 A. It's dated April 29th.

15 Q. What year?

16 A. Oh, I'm sorry. 2010.

17 Q. Do you remember getting the letter on or about that date?

18 A. Approximately.

19 Q. Okay. So, Dr. Tudor, you talked earlier about a letter
20 that you were supposed to get from Larry Minks that was
21 supposed to contain -- I'm sorry.

22 You talked earlier about a letter you were supposed to
23 get from Doug McMillan which contained Larry Minks's
24 rationales; right?

25 A. Yes.

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1 MR. YOUNG: Your Honor, may I approach the witness?
2 I'd like to hand her Plaintiff's Exhibit 79.

3 THE COURT: Yes.

4 MR. YOUNG: Thank you.

5 Q. (BY MR. YOUNG) Dr. Tudor, do you recognize Plaintiff's
6 Exhibit 79?

7 A. Yes. It's a memorandum to me from Doug McMillan.

8 MR. YOUNG: Your Honor, may I propose that this be
9 admitted as Plaintiff's Exhibit 79?

10 MS. COFFEY: No objection, Your Honor.

11 THE COURT: Admitted.

12 Q. (BY MR. YOUNG) So, Dr. Tudor, can you tell me what the
13 date is on this letter.

14 A. April 30th, 2010.

15 Q. When did you get this letter?

16 A. I believe this was the letter that I received in June,
17 sometime in June 2010.

18 Q. Before this, had you ever gotten a letter that had a date
19 that was so old from a Southeastern administrator?

20 A. No. No, I had never -- I had never had that experience,
21 and I'd never heard of such a thing.

22 Q. Okay. Other than the date, was there anything else that
23 was odd about this letter, to you?

24 A. Just the purported rationales for denying me tenure and
25 promotion seemed very odd.

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1 Q. What were the particular things that you found odd about
2 those rationales?

3 I'm sorry. These were the first rationales you had ever
4 received; right?

5 A. Yes.

6 Q. So what was odd about them?

7 A. Well, for instance, in terms of research and scholarship,
8 he says that two publications and one presentation at a
9 regional symposium, that those things certainly merit -- or
10 meet the standard, but then he looks at other activities. So
11 it could be considered bonus activities that he claimed didn't
12 quite meet the bar and cited those as a supposed rationale to
13 deny me tenure and promotion.

14 Q. So, Dr. Tudor, at this point in time, did you know other
15 professors in the English department who had received tenure?

16 A. Yes.

17 Q. How many publications did those professors have when they
18 got tenure on average?

19 A. Fewer than mine.

20 Q. How few?

21 A. As little as one.

22 Q. Okay. But Doug McMillan told you that two publications
23 wasn't enough?

24 A. Correct.

25 Q. And it wasn't enough because your bonus activities

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1 weren't good enough, even though your two publications were
2 good enough?

3 A. Correct.

4 Q. Okay. Dr. Tudor, does Doug McMillan talk about your
5 service in this letter?

6 A. Yes.

7 May I elaborate? There's one other peculiar thing about
8 the scholarship --

9 Q. Sure.

10 A. -- that really stood out to me as well.

11 I edited two of the proceedings from the symposium in
12 2006 and 2008, and he -- and there's a claim here that they
13 couldn't find -- that they couldn't verify those publications.
14 But those publications are on display in a display case in the
15 library which is literally next door to the administration
16 building in full view.

17 So I had been very -- it had struck me as very odd that
18 they -- he couldn't verify that I'd actually edited those --
19 those proceedings from the symposium.

20 Q. Dr. Tudor, can you explain to the jury, what symposium
21 are you talking about?

22 A. The Native American Symposium.

23 Q. The very big symposium, the only conference at
24 Southeastern?

25 A. Correct. Our regional conference.

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1 Q. Dr. Tudor, I don't know how many folks in the room might
2 know this, but what does the cover of a proceeding publication
3 look like?

4 A. The -- the cover would state the year in which the
5 proceeding occurred. It would state the theme of the
6 proceedings. We had different themes for different years.

7 And then it would state who edited the proceedings. All
8 of those were displayed very prominently on the front cover of
9 the journal.

10 Q. After you edited a proceeding, were any copies of it sent
11 out to administrators at Southeastern?

12 A. Yes, copies were sent directly to the different
13 administrators.

14 So, once again, it struck me as very -- very peculiar
15 that Doug McMillan was unfamiliar with who edited the
16 proceedings from our only conference when, not only was there
17 a copy on display in our library, but also a copy had been
18 sent personally to Doug McMillan.

19 And while he's writing -- perhaps I'm -- again,
20 purportedly on behalf of Larry Minks, and, certainly, Larry
21 Minks would have received a copy of the proceedings as well
22 with my name prominently displayed on the cover.

23 Q. Dr. Tudor, are you a member of the Chickasaw Nation?

24 A. I'm sorry.

25 Q. It's okay. I'll repeat the question.

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1 Dr. Tudor, are you a member of the Chickasaw Nation?

2 A. Yes, I am.

3 Q. Did you take pride in being a professor of Chickasaw
4 heritage at Southeastern?

5 A. I would phrase it as it was an honor to represent
6 Chickasaw Nation in my service at Southeastern.

7 Q. Was it important to you to participate in the Native
8 American Symposium?

9 A. Yes, it was important.

10 Q. Okay. Dr. Tudor, let's try to move on.

11 Was there anything odd about McMillan's critique of your
12 service in this letter?

13 A. Yes. It does not -- it doesn't -- it doesn't acknowledge
14 my service on the Native American Symposium committee.

15 It also fails to note my service on -- there's a
16 statewide program in Oklahoma called the Oklahoma -- it was
17 OSLA, Oklahoma Scholarship Leadership Enrichment program,
18 which is a very prestigious -- it's a very prestigious honor
19 for all the universities in Oklahoma. It's hosted at
20 different universities on different years and different
21 occasions. And the year that Southeastern hosted it, I was
22 honored to teach with the renowned scholar Rennard Strickland,
23 who was a dean of law at the University of Oklahoma.

24 And I consider that one of the highlights of my service.
25 It was just a tremendous honor to participate in that.

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1 Q. Now, Dr. Tudor, so you talked about some oddities and
2 some criticisms that didn't make sense to you. I want to ask
3 you something more specifically.

4 Was there anything in Doug McMillan's letter that made
5 you believe that you would not be allowed to reapply for
6 tenure the next year?

7 A. No, nothing.

8 Q. So it doesn't say there's a rule that says you can't
9 apply?

10 A. No.

11 Q. Okay. Did you have any concerns at this point in time,
12 in June when you got this letter dated in April, that you
13 wouldn't be allowed to reapply?

14 A. Well, I was -- I was confident that the rules allowed me
15 to reapply.

16 After what had happened the past year, I was -- there was
17 some anxiety that the administration may not follow those
18 rules. And I was still -- the veiled threat from Scoufos was
19 still echoing in my mind.

20 But the rules are the rules. And so I was moving forward
21 and I was hoping that they would follow the rules and I'd be
22 allowed to reapply and put all this behind me.

23 Q. At this point in time, Dr. Tudor, had you ever heard of a
24 rule at Southeastern that if you didn't get tenure one year at
25 any stage, that you couldn't try the next year?

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1 A. No, never.

2 Q. Dr. Tudor, I think you mentioned that you served on the
3 faculty senate at one point at Southeastern?

4 A. Yes, that's correct.

5 Q. Did you ever serve on the rules committee at
6 Southeastern?

7 A. There's -- it's a type of -- yes. Yes, it could be --
8 could be construed that. It's faculty policies and procedures
9 committee, which deals with rules governing faculty.

10 Q. And rules governing tenure processes for faculty; right?

11 A. Yes, absolutely.

12 Q. If there had been a rule, would you have known?

13 A. Yes.

14 Q. Did you work hard on that committee?

15 A. Yes. Yes, that was a very labor-intensive committee.

16 Q. By chance, did Doug McMillan recognize your service on
17 that committee in that letter?

18 A. No.

19 Q. And, Dr. Tudor, I'm going to fast-forward a little bit.
20 Okay?

21 Did you file some complaints in August 2010?

22 A. Yes.

23 Q. Okay. Multiple complaints?

24 A. Yes.

25 Q. Okay. Did you file a discrimination complaint with

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1 Claire Stubblefield?

2 A. Yes.

3 Q. Did you file a complaint with the faculty appellate
4 committee?

5 A. Yes.

6 Q. Did you file a complaint with the U.S. Department of
7 Education?

8 A. Yes.

9 Q. Dr. Tudor, can you tell the jury why you filed so many
10 complaints in August 2010?

11 A. Well, there's a couple of reasons. So I wanted there to
12 be a record of what had happened. I wanted to let the
13 responsible parties know that rules had been -- rules had been
14 egregiously broken. I wanted things to be fixed. I mean, it
15 seems to me that things were very broken there and they needed
16 to be fixed.

17 Q. Were you hurt at that point?

18 A. Yes.

19 Q. Can you explain to the jury why you were hurt?

20 A. I'd always -- I had followed the rules. I had done
21 everything that was expected of me, even more. I'd worked
22 very, very hard for something. And in spite of -- in spite of
23 that, I was -- I was denied my reward for my -- for my work.

24 What else?

25 I was -- sorry. Can you -- I got lost a little bit in my

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1 explanation.

2 Q. I asked you if you were hurt.

3 A. Yeah.

4 Q. Is it painful for you to talk about this?

5 A. Yes. I was -- I was hurt for myself. I was hurt for my
6 colleagues. I was hurt for Southeastern. I was -- it was a
7 very painful disappointment all around.

8 Q. Okay. Now, Dr. Tudor, so those three complaints you
9 filed, were they all different, the substance of them?

10 A. The substance of them was the same.

11 Q. So you were basically sending this same complaint to a
12 bunch of different folks?

13 A. Yes. Each one had their own responsibilities, and I
14 believe that they needed to be notified so they could provide
15 the appropriate fixes.

16 Q. So, Dr. Tudor, let's again fast-forward a little bit.

17 Did you try to apply for tenure in the 2010-11 cycle?

18 A. Yes, I did.

19 Q. When did you start preparing to apply?

20 A. Well, applying for tenure is a continuous process, but I
21 started putting my portfolio together when I -- when it was
22 returned to me at the -- right before the beginning of the
23 fall semester 2010.

24 Q. You got that portfolio back from -- would it have been
25 Larry Minks's office or somewhere else?

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1 A. From Larry Minks's office, yes.

2 Q. Okay. Can you tell me a little bit about how you started
3 assembling that 2010-11 portfolio?

4 A. Yes. Since a portfolio is based upon all of your work, I
5 simply -- to prepare the next portfolio, what I needed to do
6 was update my CV, which is that long, detailed résumé. So I
7 needed to include the other work and publications that I
8 had -- had done since the previous application.

9 I updated my cover letter. I added some new reference
10 letters, for example, from Mark Spencer; from Lisa Coleman --
11 she wrote me, as I mentioned earlier, a very powerful
12 recommendation for tenure -- from Virginia Parrish, another
13 colleague; and from Kim McGehee. They all wrote me new
14 letters.

15 I removed some of the old letters. For instance, Theresa
16 Anderson, our secretary, not only had I wrote about her in my
17 previous cover letter, but I also included a letter of
18 reference from her. I thought it was relevant because she sat
19 right next to me and she heard my interaction with students
20 and how well that I got along with students. And I thought
21 that was very important information, but some administrators
22 didn't. Well, as you heard in the opening, Theresa
23 Anderson -- they took it as disrespectful that I included
24 Theresa Anderson in my cover letter and as a reference.

25 So I removed a reference to her, a new cover letter, and

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1 I also removed her letter of recommendation for me in my
2 updated portfolio.

3 Let's see. What else?

4 I added new publications and just a few miscellaneous
5 other things that would go in a portfolio, but those are the
6 main things that I did.

7 Q. Let me ask you a specific question. You said you added
8 new publications.

9 A. Yes.

10 Q. That's the same thing as articles?

11 A. Yes. Yes, articles.

12 Q. How many articles did you have at that point? Do you
13 remember?

14 A. Well, there was a number -- well, there were several that
15 had -- there were more that had been accepted for publication.
16 And there was also, actually, published articles. So during
17 that -- during the course of the 2010-2011 cycle, I had
18 approximately a dozen publications during that cycle.

19 I'm not sure at any given time what the number was during
20 that period. But, cumulatively, it turned out, during that
21 cycle, to be approximately a dozen.

22 Q. Okay. At that point in time, did you know anyone in the
23 English department, tenured or untenured, who had that number
24 of published articles?

25 A. No. No.

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1 MR. YOUNG: Okay. Your Honor, may I approach the
2 witness?

3 THE COURT: Yes.

4 Q. (BY MR. YOUNG) Dr. Tudor, I've handed you what has been
5 marked as Plaintiff's Exhibit 164.

6 Do you recognize the front page of this document?

7 A. Yes.

8 Q. What is it?

9 A. It's my -- my tenure portfolio for the year 2010-2011.

10 Q. Did you assemble that document?

11 A. Yes.

12 MR. YOUNG: Your Honor, may I propose this be
13 admitted as Plaintiff's Exhibit 164?

14 MS. COFFEY: Objection, Your Honor. Dr. Tudor's
15 2010-2011 portfolio was never submitted for tenure review at
16 Southeastern. She compiled it, but it was never admitted.
17 And, therefore, there is no relevancy to this document.

18 THE COURT: Overruled. I will admit it.

19 Q. (BY MR. YOUNG) So I think earlier you testified,
20 Dr. Tudor -- you don't need to look at it right now.

21 A. Okay.

22 Q. Earlier, you testified -- I know you know it well.

23 Earlier, you testified that you took your 2009-10
24 application -- I assume it was in a binder -- and you composed
25 the new application; right?

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1 A. Correct.

2 Q. When you were in the process of doing that, did you
3 discover anything?

4 A. Yes. One of the things which I removed from the old
5 portfolio was the denial letters from Lucretia Scoufos, Doug
6 McMillan, and Larry Minks.

7 Q. And did you notice anything about Lucretia Scoufos's
8 letter that was in the portfolio?

9 A. Yes. It was a different letter than the one that John
10 Mischo and myself had received.

11 Q. Okay.

12 MR. YOUNG: Your Honor, I'd like to use the document
13 projector to publish a document to the jury.

14 THE COURT: Only if it's been admitted.

15 MR. YOUNG: Okay. Let me bring it -- thank you,
16 Your Honor.

17 Your Honor, may I approach the witness?

18 THE COURT: Yes.

19 MR. YOUNG: Thank you, Your Honor.

20 Q. (BY MR. YOUNG) Dr. Tudor, do you recognize what has been
21 marked as Plaintiff's Exhibit 77?

22 A. Yes.

23 Q. What is it?

24 A. This is authored by Lucretia Scoufos, and it has the
25 reasons, rationales, why she denied my tenure application.

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1 Q. Had you ever seen this letter before you got back the
2 portfolio?

3 A. No, I had not.

4 Q. Is there anything about the date on this letter that you
5 find interesting?

6 A. Yes. The date is exactly the same as the letter which
7 she sent to me and my department chair, John Mischo. So it
8 appears that this letter is backdated.

9 Q. Were you concerned when you discovered this letter?

10 A. Yes, I was concerned and shocked.

11 Q. Do you remember what you did?

12 A. I contacted John Mischo and shared with him this
13 information, and he shared my concern and dismay.

14 Q. Had you ever heard of this happening before?

15 A. No, never.

16 Q. Did you reach out to anyone else to talk about this
17 letter?

18 A. Yes. I informed Claire Stubblefield about the existence
19 of this backdated letter, and I talked to my colleagues in my
20 department about its existence as well.

21 Q. Did Claire Stubblefield respond to you at all when you
22 reached out to her?

23 A. She simply acknowledged that she received the
24 information, but she didn't -- but otherwise, no.

25 Q. Okay. So, Dr. Tudor, let's put our focus back on the

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1 2010-11 application. Okay?

2 After you assembled the portfolio, what happened? What
3 was the next step in the process?

4 A. I notified Dean Scoufos, Lucretia Scoufos, that I would
5 be applying for tenure in 2010-2011.

6 Q. Did Dean Scoufos respond to you?

7 A. She sent me an e-mail saying that since we have -- I'm so
8 sorry. I'm coughing so much.

9 Q. That's okay.

10 A. She sent me an e-mail that said since we had met the
11 previous year to discuss the portfolio, she saw no need to
12 meet with me again to discuss this year's portfolio. And so
13 we wouldn't -- so we would not be meeting in person to discuss
14 it.

15 Q. Did you find that odd?

16 A. Well, yes. I mean, the purpose of the meeting was to
17 discuss the content of the portfolio and to make sure that an
18 applicant -- that the applicant succeeds; right? And I had
19 added -- I had added quite a bit to my portfolio. And it
20 would have been helpful to discuss those issues with her.

21 Q. Did you meet with anyone else about your 2010-11
22 application?

23 A. Yes. Randy Prus. He became the new department chair
24 after John Mischo stepped down.

25 Q. Okay. Did you talk to Randy Prus about your application

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1 in 2010-11?

2 A. Yes. I gave him a copy of my portfolio for his review.

3 Q. Did he give you any feedback?

4 A. Yes. I --

5 MS. COFFEY: Objection, Your Honor. Hearsay.

6 Dr. Prus is noticed as a witness, can come in and testify
7 about what he told Dr. Tudor.

8 THE COURT: Are you going to ask her what he said?

9 MR. YOUNG: No. I was just asking if he gave her
10 any feedback.

11 THE COURT: All right. Overruled.

12 Q. (BY MR. YOUNG) Did Randy Prus give you any feedback?

13 A. Yes.

14 Q. Did he send you any edits on your portfolio?

15 A. Yes.

16 Q. Was the feedback helpful to you?

17 A. Yes, it was very helpful.

18 Q. Can you tell me why it was helpful?

19 A. Well, I always appreciate the feedback from any of my
20 colleagues, and especially my department chairs. And he had
21 seen many of my colleagues -- a number of people succeed in
22 their tenure application.

23 So I respected -- I respected the changes that he wanted
24 me to make, and we talked through them. And by the time I was
25 finished, I think we were both very confident that my tenure

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1 application 2010-2011 would succeed.

2 Q. Do you trust Randy Prus's judgment?

3 A. Yes.

4 Q. Is he a truthful person?

5 A. Yes.

6 Q. Dr. Tudor, why don't we move forward in time.

7 Do you know what happened after you met with Randy Prus?

8 What was the next step in your 2010-11 application?

9 A. Randy Prus began assembling the tenure review committee
10 to look at my portfolio and to make a decision on my tenure
11 application for that year.

12 Q. Dr. Tudor, did something significant happen in early
13 October 2010?

14 A. Yes. Randy Prus and myself received -- we received
15 notice to go to Dean Scoufos's office.

16 Q. Did Dean Scoufos tell you what that meeting was about
17 before you arrived?

18 A. No. We -- she did not tell me, and she did not tell
19 Randy Prus either. When I went to his office, we walked over
20 to Dean Scoufos's office together. Her office is in a
21 different building. He had no idea what the meeting was
22 about.

23 Q. Was that unusual?

24 A. I believe so, yes. He's the department chair. I believe
25 that he should be kept in the loop about -- and -- about

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1 anything that happens with the faculty that he's responsible
2 for in his department.

3 Q. Before you went to this meeting, did you have any idea
4 what it could possibly be about?

5 A. No.

6 MR. YOUNG: Your Honor, may I approach the witness?

7 THE COURT: Yes.

8 Q. (BY MR. YOUNG) Dr. Tudor, I've handed you what I've
9 marked as Plaintiff's Exhibit 84.

10 Do you recognize this document?

11 A. Yes.

12 Q. What is it?

13 A. This is the letter that I received when I went -- when
14 Randy Prus and I went to Lucretia Scoufos's office. She
15 presented this memo from Doug McMillan to us.

16 MR. YOUNG: Your Honor, may I propose this be
17 admitted as Plaintiff's Exhibit 84?

18 MS. COFFEY: No objection, Your Honor.

19 THE COURT: Admitted.

20 Q. (BY MR. YOUNG) Okay. Without reading this letter,
21 Dr. Tudor, tell the jury generally what it says.

22 A. It says that --

23 MS. COFFEY: Objection, Your Honor. The document
24 speaks for itself. There's no need for a witness to summarize
25 the document.

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1 THE COURT: Sustained.

2 MR. YOUNG: Okay.

3 Q. (BY MR. YOUNG) Dr. Tudor, what was discussed at this
4 meeting with Dean Scoufos, Randy Prus, and yourself?

5 A. About how the rules allowed me to reapply. Doug McMillan
6 had made the decision that I was not to be allowed to reapply
7 for tenure promotion in 2010-2011.

8 Q. Was there anything odd about the fact that it was Doug
9 McMillan who made that decision?

10 A. Yes. It seemed -- it seemed very peculiar that he would
11 make that decision. It was also very peculiar that Lucretia
12 Scoufos would be handing -- would be giving me a memo from him
13 instead of going to his office.

14 There's a number of -- it was all peculiar. Randy and I,
15 we were both blindsided by this.

16 Q. So you've had a lot of interactions with Doug McMillan by
17 this point. At any point did Doug McMillan reach out to you
18 and offer to meet with you in person to just talk it out?

19 A. No, he never did.

20 Q. Did you ever see Doug McMillan during the 2010-11 school
21 year?

22 A. No, I did not.

23 Q. When was the last time you saw Doug McMillan?

24 A. I think it was at a deposition.

25 Q. For this case?

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1 A. For this case.

2 Q. Dr. Tudor, was -- this meeting with Dean Scoufos, was
3 this the first time you were told you would not be allowed to
4 reapply for tenure?

5 A. Yes, it was.

6 Q. Did being barred from reapplying for tenure make any
7 sense to you?

8 A. No. No, not only did it not make any sense, it -- I
9 wonder what the opposite of not making sense is. It flew in
10 the face of the way things -- of the rules and the way things
11 should have been handled.

12 Q. Had you ever heard at this point in time of a professor
13 being barred from reapplying for tenure?

14 A. No. No, I had not. And I asked around. And nobody
15 that -- you know, people had been there many, many years
16 longer than I. They had never heard of such a thing either
17 ever.

18 Q. Was any explanation given to you for why you weren't
19 being allowed to reapply for tenure?

20 A. That it would tear the university apart, inflame
21 tensions, something to that effect.

22 Q. It would inflame tensions?

23 A. Yes. I -- I believe that was referring to what had
24 happened in the previous year when that -- the administration
25 had violated the rules and also violated the orders of the

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1 faculty appellate committee.

2 It did raise tensions between the faculty and the
3 administration for them to so egregiously violate the rules
4 and also the outcome of the body -- the faculty appellate
5 committee, whose mission -- whose purpose on campus was to
6 make sure that any disagreements between faculty and the
7 administration were resolved amicably.

8 So there were -- I believe those are the tensions he was
9 referring to.

10 Q. So around the time you got this letter in early October
11 2010, had Doug McMillan seen your 2010-11 tenure application?

12 A. No.

13 Q. Did he have any way of knowing what was inside of it?

14 A. No.

15 Q. Was it different from your previous application?

16 A. Yes.

17 Q. Can you just briefly summarize for the jury significant
18 differences.

19 MS. COFFEY: Objection, Your Honor. Between the two
20 portfolios, each speak for themselves. There's no need for
21 Dr. Tudor to summarize the differences between the two.

22 THE COURT: I believe she already has. If there's
23 anything that you haven't already testified to that's
24 different, please tell us.

25 To that extent, you're overruled.

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1 THE WITNESS: Uh-huh. Well, there are a number of
2 articles that had been published or accepted for publication.
3 Since scholarship was one of the purported areas of weakness,
4 that was a very substantial -- I think that was a very
5 substantial difference. It -- although, I met -- the standard
6 before this was far in excess of what was required by then.

7 Q. (BY MR. YOUNG) Just generally, you made other changes to
8 it; correct?

9 A. Yes, as I had mentioned earlier.

10 Q. Okay. Now, Dr. Tudor, what did you do when you got this
11 letter from Doug McMillan?

12 A. I notified Claire Stubblefield of this latest
13 development. It's self-evident that this was retaliation. So
14 I added that to my complaint.

15 I also filed another grievance with the faculty appellate
16 committee because this was another egregious violation of the
17 rules. The rules allow me to apply in my seventh year. And
18 so I took to the faculty appellate committee so that they
19 could make a decision whether or not I should be allowed to
20 reapply.

21 Q. So, Dr. Tudor, can you explain to the jury why it was a
22 big deal, why you had to reapply the seventh year?

23 A. Yes. Tenure-track faculty are only given seven years to
24 be granted tenure or else we're fired. That's the end of our
25 career.

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1 Q. So your livelihood was on the line?

2 A. Yes, my livelihood, my future. And a tenure-track
3 professor, if we don't -- if we don't get tenure, it's a huge
4 black mark on our reputation. It's almost -- it's really
5 impossible to overcome that kind of black mark on our
6 reputation.

7 So not only would I lose my livelihood, but my career and
8 what I had worked for my whole life, it would have been over.

9 Q. When this was happening, did you tell your sisters what
10 was happening at Southeastern?

11 A. No. I -- even though -- no. Even though I knew that I
12 qualified and my colleagues -- you know, they voted. I was
13 qualified. I was still -- I was too ashamed and humiliated,
14 and I didn't know how to explain it to people like my sisters
15 who had never had the opportunity to attend college. To
16 them -- you know, it's -- universities and colleges, they're
17 almost a magical place. You can't imagine this type of
18 mischief going on.

19 But mostly I was -- I was just embarrassed. I was
20 embarrassed for Southeastern. I was embarrassed for myself.
21 It was humiliating. I know it would be very -- I couldn't
22 bring that kind of hurt to them.

23 Q. Did you ever tell your sisters what happened at
24 Southeastern?

25 MS. COFFEY: Objection, Your Honor. This is kind of

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1 getting into an extremely irrelevant area regarding who she
2 told about her experiences at Southeastern.

3 THE COURT: You need to turn that mic toward you.

4 MS. COFFEY: I apologize.

5 THE COURT: I heard you, but speak up.

6 I don't understand the relevance to this.

7 MR. YOUNG: She is seeking damages to compensate her
8 for harm to professional reputation as well as garden-variety
9 emotional distress damages. Her testimony is relevant to how
10 these events impacted her.

11 MS. COFFEY: Your Honor, what she told her sisters
12 has no effect on her professional reputation.

13 THE COURT: I'll permit it.

14 MR. YOUNG: Thank you, Your Honor.

15 Q. (BY MR. YOUNG) Dr. Tudor, I'll repeat my question.

16 Did you ever tell your sisters what happened to you at
17 Southeastern?

18 A. No. They -- they both passed away before -- they passed
19 away during the -- while -- during these years I've been
20 trying to get my job and reputation back. I never told them.

21 Q. Okay. Dr. Tudor, I'm going to quickly go through your
22 complaint with Claire Stubblefield.

23 You said that you filed a complaint, I think, in the
24 beginning of the fall semester, and then you supplemented it
25 after that letter from Doug McMillan; is that right?

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1 A. Yes.

2 Q. Okay. Let's talk a little bit about that complaint.

3 To your knowledge, what did Claire Stubblefield do with
4 your complaints?

5 MS. COFFEY: Objection, Your Honor. This witness
6 can't testify what Claire Stubblefield did with --

7 THE COURT: If you know. To your knowledge.

8 THE WITNESS: It's -- I -- to my -- to my knowledge,
9 she failed to investigate the retaliation claim. She failed
10 to --

11 MS. COFFEY: Objection, Your Honor. Again, she's
12 testifying about something she --

13 THE COURT: Do you know what happened? Do you know
14 what she did?

15 THE WITNESS: It was in her report.

16 MR. YOUNG: Well, here, let me withdraw that
17 question, Your Honor, and ask her a different question.

18 THE COURT: All right.

19 Q. (BY MR. YOUNG) Dr. Tudor, did you converse with Claire
20 Stubblefield during the pendency of her investigation?

21 A. On a couple of occasions.

22 Q. Did you exchange e-mails with Claire Stubblefield during
23 the pendency of her investigation?

24 A. Yes.

25 Q. Okay. Was there anything, from your perspective, based

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1 on your interactions -- personal interactions with Claire
2 Stubblefield, was there anything that was odd during this
3 investigation?

4 MS. COFFEY: Objection. Relevancy, Your Honor.

5 THE COURT: Overruled.

6 THE WITNESS: Yeah. Well, she didn't seem to know
7 how to handle a complaint involving a transgender person. For
8 instance, when I mentioned to her that Lucretia Scoufos had
9 used a male pronoun in reference to me, she didn't seem
10 concerned. She didn't seem very interested in asking
11 follow-up questions.

12 I was very concerned about the amount of time that was
13 elapsing. The substance of my complaint, for instance, in
14 2010-11, about being allowed to reapply, there's a lot of
15 things that have to be done. The tenure committee has to
16 meet; they have to vote. So that's deadlines are passing.

17 Q. (BY MR. YOUNG) Okay. Dr. Tudor, at any point did you try
18 to help Claire Stubblefield learn more about transgender folks
19 who experience discrimination?

20 A. I forwarded a letter to her from the Department of
21 Education with specific guidance.

22 Q. Why did you forward that to her?

23 A. To familiarize her with the issues and to help her
24 investigation.

25 Q. So you were trying to help her?

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1 A. Yes.

2 Q. Okay. Did Claire Stubblefield ever talk to you about the
3 documents that you sent her to try to help her?

4 A. No.

5 Q. Did you have any particular concerns about Claire
6 Stubblefield's investigation in November 2010?

7 A. Yes, I -- I knew that the deadlines for the tenure
8 committee meeting, the department chair review of my
9 portfolio, were approaching. There was a lot of work to be
10 done. And I became increasingly concerned about the expiration
11 of those deadlines, and I -- and I contacted her to express
12 those concerns.

13 And she -- she gave me different -- she led me to believe
14 she was almost finished. And then she kept on delaying and
15 delaying and delaying, and I was becoming increasingly
16 alarmed.

17 Q. Did you have any particular concerns about Claire
18 Stubblefield's investigation in December 2010?

19 A. December was -- that was the deadline for the tenure
20 promotion committee to make their recommendation.

21 Q. Did you hear from Claire Stubblefield in December 2010?

22 A. I still had not received her -- she still had not
23 completed her report. She had still not concluded her
24 investigation.

25 Q. Okay. Dr. Tudor, while Claire Stubblefield's

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1 investigation was going on, did she ever tell you that she was
2 friends with Doug McMillan?

3 A. No, she never mentioned that.

4 Q. If you had been told that Claire Stubblefield was friends
5 with Doug McMillan, would you have asked for someone else to
6 have done that investigation?

7 A. Yes, of course. Someone who could be objective.

8 Q. Why is that?

9 A. Because everybody is entitled to a fair hearing from a
10 neutral party to look at the evidence and consider it.

11 Q. Do you think Doug McMillan was entitled to a fair
12 investigator?

13 A. Everybody's entitled to a fair investigator.

14 Q. If someone had accidentally chosen one of your friends to
15 investigate a complaint, would you have asked for a different
16 investigator to be chosen?

17 A. I would have expected a different investigator to be
18 chosen. That's only fair.

19 Q. Okay. At any point during the investigation, did Claire
20 Stubblefield talk to you about whether you, as a transgender
21 person, were protected from sex discrimination?

22 A. No.

23 Q. Okay. Let's fast-forward a bit to January 2011.

24 You eventually heard from Claire Stubblefield about her
25 decision?

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1 A. Yes.

2 Q. Very generally, can you tell me what the final decision
3 was from Claire Stubblefield.

4 A. Well, her final decision made no mention of my complaint
5 about retaliation. Her final report made no mention of me
6 being denied the opportunity to apply in 2010-2011. It didn't
7 address the -- the substance of my complaint about the
8 2009-2010 application inasmuch as she didn't consider the
9 testimony of members of my tenure committee or my department
10 chair.

11 It's -- her conclusions seemed to be based entirely upon
12 the testimony of the people who discriminating --
13 discriminated against me saying they didn't discriminate
14 against me and not on the evidence.

15 Q. Did you give Claire Stubblefield evidence?

16 A. Yes.

17 Q. Now, let me -- I messed up. So let's go back a little
18 bit.

19 When the investigation was still going on with Claire
20 Stubblefield, did you tell her that things felt hostile at
21 Southeastern?

22 A. Yes.

23 Q. Did you two discuss that a bit?

24 A. A bit, yes.

25 Q. Did Claire Stubblefield ever give you a finding on

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1 whether you were experiencing hostilities at Southeastern?

2 A. No, no. Again, when I said that, I mean I would complain
3 to her, but then she wouldn't ask follow-up questions or seem
4 interested in my -- in my complaint.

5 Q. Did you do your best to tell Claire Stubblefield
6 everything that she asked of you?

7 A. Yes.

8 Q. If she'd asked you more questions, would you have
9 answered them honestly?

10 A. Of course.

11 Q. Okay. So when you got Claire Stubblefield's decision,
12 what did you do?

13 A. The only thing the rules allowed me to do, which was
14 appeal to President Minks.

15 Q. Did you complain about President Minks in your complaint
16 to Claire Stubblefield?

17 A. Yes.

18 Q. So the rules required you to let President Minks make a
19 decision as to whether he was the one who discriminated
20 against you?

21 A. That -- that's correct. That's -- yes.

22 Q. What did President Minks decide?

23 A. President Minks decided that he had not discriminated
24 against me.

25 Q. Did the rules allow you to do anything else after that?

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1 A. No.

2 Q. Okay. Let's talk about the third faculty appellate
3 complaint. I think you mentioned earlier you filed that
4 around the time you got that October 2010 letter from Dr. Doug
5 McMillan. Is that correct?

6 A. That's correct.

7 Q. Okay. Can you just briefly say what you complained about
8 in that complaint.

9 A. That complaint was based on Doug McMillan not allowing me
10 to apply for tenure in 2010-2011.

11 Q. Okay. Did you ever find out what the faculty appellate
12 committee decided on that third complaint?

13 A. Yes. The faculty appellate committee decided that the
14 rules allowed me to apply in 2010-2011 and that I should be
15 allowed to apply in that year.

16 Q. And that's all you were asking for, the opportunity to
17 apply?

18 A. Yes, that's correct.

19 Q. You wanted to be judged on your merits?

20 A. Yes, absolutely.

21 Q. That's it?

22 A. Yes.

23 Q. Okay. What happened after the faculty appellate
24 committee ordered the administration to let you reapply?

25 A. The president's designee, Ross Walkup, disagreed with the

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1 faculty appellate committee's decision.

2 Q. What happened after that?

3 A. Well, there was an impasse because this had never --
4 there was an impasse. Bryon Clark made up new rules.

5 Q. Why don't you explain who Bryon Clark is first. Who was
6 he at the time?

7 A. He -- he worked under Doug McMillan.

8 Q. Someone who worked under Doug McMillan made up rules?

9 A. About -- yes. Yes, he made up the rules to apply to my
10 case.

11 Q. For a complaint about Doug McMillan?

12 A. For a complaint about Doug McMillan, correct.

13 Q. Okay.

14 MR. YOUNG: Your Honor, may I approach the witness?

15 THE COURT: Yes.

16 Q. (BY MR. YOUNG) Dr. Tudor, I've handed you an exhibit
17 marked Plaintiff's Exhibit 54.

18 Do you recognize this document?

19 A. Yes.

20 Q. What is it?

21 A. I'm sorry. It's from Bryon Clark, informing -- to me,
22 right.

23 Q. I'm sorry. What type of --

24 A. So Bryon Clark informing me of the -- just a moment -- of
25 what had happened with the impasse between the president's

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1 designee, Ross Walkup, and the -- what he was going to do
2 next, the new rules.

3 Q. Okay.

4 MR. YOUNG: Your Honor, may I propose that this be
5 admitted as Plaintiff's Exhibit 54?

6 MS. COFFEY: No objection, Your Honor.

7 THE COURT: Admitted.

8 MR. YOUNG: Okay. Your Honor, if I may approach
9 the witness one more time?

10 THE COURT: Yes.

11 MR. YOUNG: Thank you.

12 Q. (BY MR. YOUNG) Dr. Tudor, I've handed you a document
13 that's marked Plaintiff's Exhibit 55.

14 Do you recognize this document?

15 A. Yes.

16 Q. Just very briefly, what is it?

17 A. I believe these are the new rules that Bryon Clark had
18 made up.

19 Q. Okay.

20 MR. YOUNG: Your Honor, may I propose that this be
21 admitted as Plaintiff's Exhibit 55?

22 MS. COFFEY: Objection, Your Honor. Lack of
23 foundation. It's extremely unclear what this document is.

24 THE COURT: Do you want to follow up?

25 MR. YOUNG: Yes, Your Honor. May I ask the witness

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1 a question to provide that foundation?

2 THE COURT: Yes.

3 MR. YOUNG: Thank you.

4 Q. (BY MR. YOUNG) Dr. Tudor, what is Plaintiff's Exhibit 54,
5 that earlier document? Is it a letter? an e-mail? What is
6 it?

7 A. It appears to be an e-mail.

8 Q. Okay. Below the date part of that document, is there any
9 attachment icon?

10 A. Yes.

11 Q. And what does an attachment icon indicate?

12 A. That there is an attachment to the e-mail that is the
13 subject of the e-mail.

14 Q. Having looked at that document, Plaintiff's Exhibit 54,
15 do you recall receiving an attachment to the e-mail you got
16 from Bryon Clark?

17 A. Yes.

18 Q. Okay. Now, having refreshed your recollection, what is
19 Plaintiff's Exhibit 55?

20 A. The attachment to the e-mail in Exhibit 54.

21 Q. Okay.

22 THE COURT: Any objection?

23 MS. COFFEY: No objection, Your Honor.

24 THE COURT: It will be admitted.

25 MR. YOUNG: Thank you, Your Honor.

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1 THE COURT: And we will break for lunch.

2 Don't discuss the case. Don't permit anyone to discuss
3 it with you. Don't expose yourselves to any discussions.
4 Don't blog. Don't tweet. Don't Facebook.

5 I think I'll have you report to the jury assembly room
6 instead of upstairs so we can bring you-all up together. And
7 please report back there at the jury assembly room on the
8 first floor at 1:15.

9 Until that time, we'll be in recess.

10 (Jury exits.)

11 (Lunch break from 12:15 p.m. to 1:15 p.m.)

12 (Jury enters.)

13 THE COURT: Be seated.

14 Please continue.

15 MR. YOUNG: Thank you, Your Honor.

16 Q. (BY MR. YOUNG) Dr. Tudor, before we broke for lunch, I
17 was asking you about your third faculty appellate committee
18 complaint, and we were talking a little bit about Plaintiff's
19 Exhibit 54 and 55, the rules, and Bryon Clark.

20 Do you recall that?

21 A. Yes.

22 Q. Okay. So can you tell me just a little bit about what
23 these rules were supposed to do, these new rules?

24 A. They were supposed to address what happens when an
25 impasse between the president's designee occurs and the

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1 faculty appellate committee.

2 Q. Now, I think you previously testified that you were on
3 the faculty senate?

4 A. Correct.

5 Q. And you were on some committee in the faculty senate that
6 had something to do with rules; right?

7 A. Correct. The faculty -- yes. Yes.

8 Q. Okay. Were new rules at Southeastern supposed to be
9 approved by the faculty senate committee that you were on?

10 A. Yes, they were.

11 Q. Were these rules that Bryon Clark imposed on you run
12 through the faculty senate committee?

13 A. No, the committee never saw these rules. We were
14 never -- we never discussed them. They were never brought to
15 us.

16 Q. To your knowledge, was that the correct way for new rules
17 to be made at Southeastern?

18 A. No, it was actually against the rules to make new rules
19 this way.

20 Q. Yet again. Okay.

21 Dr. Tudor, did you complain to Bryon Clark about these
22 rules?

23 A. Yes, I -- yes, I did.

24 Q. Why did you complain?

25 A. Because there's a procedure to create new rules, which

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1 was -- which involved the faculty senate and also the
2 committee that I -- that I served on. And these rules were
3 not being followed.

4 It was also the substance of the new rules, which
5 basically made -- not basically -- it made Minks the decider
6 in a case involving him as a person who was complained against
7 once again.

8 Q. So what happened when you complained to Bryon Clark about
9 these new rules?

10 A. He implemented them anyway. I had to abide by these new
11 rules despite my objections to fairness and procedure and
12 established rules and practices.

13 Q. To your knowledge, did Southeastern ever use these new
14 rules for anyone other than you?

15 A. No. To my knowledge, I'm the only person these rules
16 ever applied to.

17 Q. Did you follow these new rules?

18 A. Yes. Yes, I always follow the rules.

19 Q. Yeah. So you followed the rules.

20 So, under these new rules, your faculty appellate
21 committee decision, the favorable one, was sent to Larry
22 Minks; is that right?

23 MS. COFFEY: Objection, Your Honor. He's leading
24 the witness.

25 THE COURT: Sustained. Avoid leading your own

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1 witness.

2 MR. YOUNG: Yes, Your Honor.

3 Q. (BY MR. YOUNG) Dr. Tudor, under these rules, what was the
4 next step in your faculty appellate grievance, this third one
5 we've been talking about?

6 A. It was sent to Larry Minks.

7 Q. Okay. But you won at the faculty appellate committee
8 level; correct?

9 A. Correct.

10 Q. So, under these rules, did you have to appeal a decision
11 you won?

12 MS. COFFEY: Same objection. Leading.

13 THE COURT: Overruled.

14 THE WITNESS: Yes. Yes, I had to appeal a ruling I
15 had won to the person I complained about.

16 Q. (BY MR. YOUNG) Had you ever heard of anything like that
17 happening before?

18 A. No. No, never.

19 Q. What did President Minks ultimately do?

20 A. He decided that he was -- that he was right in the
21 beginning. He decided for himself, in other words. He
22 decided for himself.

23 Q. Did the new rules allow you to do anything else after
24 Larry Minks made that decision?

25 A. No.

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1 Q. There was nowhere else you could go to?

2 A. No.

3 Q. Dr. Tudor, I want to fast-forward a little bit to April
4 2011.

5 When did the school year end at Southeastern?

6 A. It ends in May.

7 Q. Okay. So about a month before the school year ended,
8 your last year at Southeastern, after all of your complaints
9 were done and all of the appeals were over, did you do
10 anything else to complain?

11 A. I started a blog. And there was a petition that was
12 started online to go to RUSO, the Regional University System
13 of Oklahoma, and I posted a link to that on my blog.

14 Q. Okay. Let's take those a little bit apart. Okay?

15 A. Okay.

16 Q. Let's talk about your blog first.

17 Can you tell me a little bit about why you started a
18 blog.

19 MS. COFFEY: Objection, Your Honor. Relevancy.

20 THE COURT: Overruled.

21 THE WITNESS: I thought at -- well, for
22 Southeastern, it's a public institution, I thought it's very
23 important for the public to know what is happening, so we
24 can -- when there's problems and rules are being broken, so
25 those rules can be fixed so that we can move forward.

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1 Q. (BY MR. YOUNG) Was your blog only about what happened at
2 Southeastern?

3 A. To my recollection, yes.

4 Q. Okay. Is what you posted on that blog true?

5 A. Yes.

6 Q. Okay. I think you mentioned a petition to the Regional
7 University System of Oklahoma.

8 For the jury, I'm just going to say I'm going to call the
9 Regional University System of Oklahoma RUSO so we can save
10 time and it's easier, just like Southeastern.

11 Okay. So you mentioned a petition to RUSO.

12 A. Yes.

13 Q. Can you tell me a little bit about how you learned about
14 this petition.

15 A. That's -- my colleagues at Southeastern, one of my -- one
16 in particular started the blog, but more than one was
17 interested in trying to do something to try to right the
18 wrong. And they started this petition.

19 And a number of faculty members, former faculty members,
20 for instance, the professor who was on the hiring committee
21 who hired me back in 2004, who is now retired, he and his wife
22 both signed the petition. Numerous students, members of the
23 community, professors in my field around the country, they all
24 signed the petition as well.

25 Q. Was this an online petition?

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1 A. Yes, it was.

2 Q. Okay. Do you know what happened with that petition?

3 A. Yes. One of my -- one of my colleagues at Southeastern
4 printed the -- printed out the petition and delivered a copy
5 to RUSO.

6 Q. Okay. What was the name of that colleague?

7 A. Dr. Meg Cotter-Lynch.

8 Q. And she was in the English department with you?

9 A. Yes.

10 Q. Are you close with Meg Cotter-Lynch?

11 A. We're friends.

12 Q. Were you good friends?

13 A. Yes, yes.

14 Q. Okay. Do you know what happened with that petition
15 ultimately?

16 A. I know it was delivered to RUSO, and they received it. I
17 don't know what they did with it after they received it.

18 Q. Did anyone from RUSO ever reach out to you, talk to you,
19 ask you what happened?

20 A. Not to my recollection.

21 Q. Your entire time at Southeastern, had you ever heard of a
22 petition being sent to RUSO asking it to do something on
23 behalf of a professor?

24 MS. COFFEY: Objection, Your Honor. Leading.

25 THE COURT: Sustained.

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1 Q. (BY MR. YOUNG) Okay. Dr. Tudor, did anyone else at
2 Southeastern, in the spring 2011 term, do anything to try to
3 help you?

4 Let me ask you a slightly different question.

5 Did the faculty senate at Southeastern do anything on
6 your behalf in the spring 2011 term?

7 MS. COFFEY: Objection. Leading, Your Honor.

8 THE COURT: Overruled.

9 THE WITNESS: Yes. The faculty senate was very
10 concerned about the rules being violated. And, also, they
11 were very concerned that the faculty appellate committee,
12 their decision had been ignored, and that new rules had been
13 made that just applied to me.

14 And some, they -- they passed a resolution ordering the
15 president to honor their -- the decision of the faculty
16 appellate committee, and that was sent to President Larry
17 Minks.

18 Q (BY MR. YOUNG) Do you know what Larry Minks did in
19 response to that order from the faculty senate?

20 A. He ignored it.

21 Q. Had you ever heard of something like that happening
22 before?

23 MS. COFFEY: Objection, Your Honor. Leading.

24 THE COURT: Overruled.

25 THE WITNESS: No. To my knowledge, that had never

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1 happened before.

2 Q. (BY MR. YOUNG) Okay. When you were at Southeastern, were
3 there any specific rules protecting transgender people from
4 sex discrimination?

5 A. No.

6 Q. While you were at Southeastern, did anyone ever try to
7 pass any such rules?

8 A. Yes. The faculty senate amended the policies, the rules,
9 and -- to include gay and transgender people. And that was
10 sent to Doug McMillan, but he did not include it in our policy
11 handbook.

12 Q. Can you just explain to the jury why the faculty senate
13 would send something like that to Doug McMillan.

14 A. As the vice president of academic affairs, he was the
15 person who was responsible to receive -- to receive rules from
16 the faculty senate.

17 Q. But he didn't honor that decision?

18 A. Correct.

19 Q. When about did the faculty senate try to add those
20 protections at Southeastern?

21 A. It was in spring 2011.

22 Q. So after all this had happened?

23 A. Yes.

24 Q. Dr. Tudor, are you familiar with Southeastern's
25 excellence in scholarship award?

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1 A. Yes. It's a very high honor that the faculty senate
2 awards to faculty.

3 Q. Did you ever get the excellence in scholarship award?

4 A. Yes. I was very, very honored to receive the faculty
5 senate award for excellence in scholarship.

6 Q. When did you get that award?

7 A. In 2011.

8 Q. Dr. Tudor, I want to talk to you a little bit about what
9 it was like for you to leave Southeastern. So fast-forward to
10 May 2011.

11 What was it like working at Southeastern once you knew
12 that you weren't being allowed -- you weren't allowed to
13 reapply for tenure and that you would have to leave?

14 A. It was very hard. I never imagined that I wouldn't
15 continue working there throughout my working life.

16 I had envisioned my future there. I spent a lot of days
17 in my office just -- so that's -- that's a grieving -- leaving
18 my jobs, leaving my friends. It was very hard to say goodbye
19 to them and to my students.

20 Perhaps one of the most difficult parts of leaving,
21 people knowing that I'm leaving, my students -- they had heard
22 that I would be leaving. They would come by to comfort me.
23 Many -- a number of them shed tears. And I tried -- it was
24 very hard to put on a brave face and say -- I ended up
25 comforting them. That was the hardest part, because I love my

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1 students so much.

2 It was very hard, but it's also one of my best memories
3 as to -- because it's not often that faculty professors get to
4 hear from their students how much they've meant in their
5 lives. So even though it's one of the most painful memories
6 for me, it's also -- it's also one of the memories I treasure
7 the most, saying goodbye to my students.

8 Q. Dr. Tudor, did you keep following Southeastern's rules
9 the rest of your time there?

10 A. Yes, I did.

11 Q. Every single day?

12 A. Yes.

13 Q. You kept teaching your classes?

14 A. Yes.

15 Q. Did you turn in your grades on time?

16 A. Yes.

17 Q. Is that important to you?

18 A. Yes. Yes, it's -- yes, of course. Yes, I -- I tried to
19 do my best and utmost for my students to the very last minute
20 I was there.

21 Q. Dr. Tudor, how did you talk to your colleagues in the
22 English department about the circumstances under which you
23 were leaving Southeastern?

24 A. I had talked to them from the beginning about what was
25 happening, and so they were well aware. So it didn't -- so

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1 they were very supportive all along, and they were always
2 trying to help me.

3 As a matter of fact, near the end, Meg Cotter-Lynch came
4 to me. She said that some of the faculty -- for instance,
5 Virginia Parrish, they wanted to have a --

6 MS. COFFEY: Objection, Your Honor. Hearsay.

7 THE COURT: Sustained.

8 THE WITNESS: Well --

9 Q. (BY MR. YOUNG) I'll ask you a different question,
10 Dr. Tudor.

11 Did you have a goodbye party at Southeastern?

12 A. Meg Cotter-Lynch asked me if I wanted a goodbye party.
13 She said some of the faculty wanted to do that for me. And I
14 said let's delay the party until I return. We'll have --
15 we'll have the party when I get back.

16 Q. So even at the very end, you had hope that you'd return?

17 A. Yes. Yes, I did. I knew what happened was against the
18 rules. I knew that I had very carefully documented what had
19 happened. I knew that everybody in my department and the
20 faculty senate, colleagues across campus, everybody knew what
21 had happened to me and how wrong it was.

22 I had every confidence that eventually -- eventually, the
23 rights -- the wrongs would be righted, and I would be able to
24 return to my home in Durant.

25 Q. At some point, did you reach out to the U.S. Equal

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1 Employment Opportunity Commission?

2 A. Yes. Yes.

3 Q. Why did you do that?

4 A. Because the law had been broken. What they did was sex
5 discrimination.

6 Q. Did you tell the U.S. Equal Employment Opportunity
7 Commission the truth?

8 A. Yes, I did.

9 Q. Okay. Dr. Tudor, let's talk a little bit more about how
10 this has affected you.

11 How did losing your job at Southeastern financially
12 affect you?

13 A. It was my only source of income. So, financially, you
14 know, I was devastated.

15 Q. At the time you left Southeastern, were you supporting
16 family members?

17 A. I tried to help my sisters and their children whenever
18 I -- whenever I was able, of course.

19 Q. Do you remember about what you were making a month when
20 you left Southeastern, what your final salary was?

21 A. Approximately \$5,000 a month.

22 Q. Okay. Did you lose your benefits when you left
23 Southeastern?

24 A. Yes, I lost all my benefits and retirement.

25 Q. So can you just name some of those benefits for me that

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1 you lost.

2 A. Health, vision, dental, and retirement.

3 Q. Can you tell me a little bit about how it felt to lose
4 those benefits.

5 A. No longer having health insurance, I was concerned if I
6 got ill or if I was in an accident, what would I -- what would
7 I do? How could I afford the cost of hospitalization or
8 medicine? I was very concerned. I was 48 years old, I
9 believe, when I was fired. So I was worried about my
10 retirement.

11 Oklahoma has something called vestment. So you have to
12 be vested. You have to work so many years to get retirement
13 benefits. And I had seven years at Southeastern and some
14 additional time as a teaching fellow at the University of
15 Oklahoma, but it wasn't enough to be vested, to my
16 understanding. And so I was worried what was going to happen
17 to me in my retirement years.

18 Q. Were you worried at all that you wouldn't be able to find
19 another job again with retirement benefits?

20 A. Yes, extremely worried, because anyone who is denied
21 tenure, that's -- that is usually the end of their career.
22 It's a black mark that, professionally, you really can't
23 recover from.

24 Q. Did you eventually find a new job?

25 A. I'm so sorry.

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1 Q. It's okay. I'll repeat the question.

2 A. I heard what you asked.

3 Q. Okay.

4 A. Yes, I eventually did find another job. Well, I found a
5 job teaching at a community college. That did not include
6 tenure.

7 Q. Dr. Tudor, can you explain to the jury what the
8 difference is teaching at a four-year school and teaching at a
9 community college for a professor?

10 A. Yes. Community colleges, their minimum requirement for
11 faculty is ordinarily a master's degree, not a -- whereas
12 universities usually require a Ph.D.

13 The expectations are also very different. For example,
14 at Southeastern, faculty members with the Ph.D.s are expected
15 to teach courses in their specialization, what we went to
16 school for, what we spent many years studying, so we could
17 pass that on to our students.

18 Community colleges, generally, it's composition and
19 perhaps an introductory literature course, very different
20 skill set between a university faculty and a community college
21 faculty.

22 Q. At that community college, were you able to teach the
23 kinds of courses that you had loved to teach at Southeastern?

24 A. I was -- no. No, I taught some introductory literature
25 courses, which, of course, I -- I think I'm -- that my Ph.D.

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1 studies qualify me for, but mostly it was composition. And I
2 never had the opportunity to teach upper-level courses in my
3 field, what my training and education prepared me for.

4 Q. Do you recall when about you got that new job?

5 A. It was in the fall of 2012, approximately 18 months after
6 the last date that I worked at Southeastern.

7 Q. So you were unemployed for a big chunk of time?

8 A. For 18 -- approximately 18 months.

9 Q. Can you tell me a little bit about what it was like to
10 try to make ends meet.

11 A. Well, it was -- it was very tough. I mean, I didn't know
12 when or if I would ever be employed again. I -- just some
13 practical matters, such as not using the air-conditioning in
14 the summer or turning on the heat in the wintertime, not
15 traveling.

16 I have a 2001 Saturn. I was always afraid if I -- afraid
17 of breaking down, I couldn't afford to get it repaired. So I
18 couldn't travel.

19 I certainly couldn't afford to go out to eat with
20 friends.

21 Q. Did you change the kinds of food you ate?

22 A. Yes. I cut -- I cut down from three meals to two meals a
23 day. Mostly, it was, like, oatmeal, rice, beans, a lot -- was
24 a large part of my diet.

25 When I had to get new clothes, I usually got them at

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1 Goodwill.

2 Q. Did you develop any health problems when you were
3 unemployed?

4 A. Yes. I couldn't afford to see a dentist regularly, and I
5 developed cavities in my wisdom teeth, which -- I had to have
6 my wisdom teeth removed, which is not easy when you're 50
7 years old.

8 Q. Dr. Tudor, you mentioned before that not getting tenure
9 is a black mark. And I want you to sort of explain that a
10 little bit more for all of us nonacademics.

11 Why is not getting tenure a black mark? What does that
12 broadcast to people?

13 A. It's usually assumed that the person didn't receive
14 tenure because of something that they did, that -- it's not --
15 people don't think that maybe there was rules being broken,
16 that maybe something askew was happening. They usually think
17 it's the person who didn't get tenure, that somehow they're
18 unworthy, unqualified. There's -- it's just almost impossible
19 to recover your reputation once that happens.

20 Q. How does it feel to you as a scholar and academic to have
21 to navigate looking for jobs with a CV that shows you didn't
22 get tenure?

23 A. It's -- well, there -- I'm thinking of two things:
24 humiliating and frustrating. I don't know which one is
25 more.

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1 It's frustrating to send out literally 100
2 applications -- more than 100 applications and not receive a
3 single job interview. It's humiliating to have that on my
4 résumé that -- on my CV as a résumé that I had been denied
5 tenure because everyone who sees it will simply think that
6 somehow I'm unqualified or unfit.

7 Q. Dr. Tudor, I'm going to ask you a little bit how you felt
8 working at Southeastern between 2007 and 2010, so around when
9 you first had to endure those rules we talked about earlier.

10 But before you learned about being denied tenure by those
11 administrators, how did it feel to be at work?

12 A. Well, on the one hand, I was always anxious because I
13 felt like I was under surveillance about my appearance after
14 that conversation with Cathy Conway. And I was also anxious
15 knowing that Doug McMillan had wanted me fired to begin with.
16 But, on the other hand, I loved my colleagues, I loved the
17 students, I loved doing research.

18 I had a -- I was -- I had a very -- I was very engaged
19 with activities such as -- I was sort of a fitness enthusiast.
20 I liked to run, and I attended Pilates and yoga classes. I
21 liked to go bike riding early in the morning. I liked to take
22 my dog out to the -- take her out to the park. I enjoyed
23 having lunch with my -- with my colleagues. So I -- of
24 course, there was anxiety, but, overall, it was a pretty good
25 quality of life.

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1 Q. Dr. Tudor, the last period you were at Southeastern -- so
2 after you learned about the tenure denial from those
3 administrators to your very last day -- how did it feel?

4 A. That was very different. I became extremely depressed.
5 I was -- I stopped exercising. I stopped doing those
6 activities that I had -- that I had engaged in before. I
7 developed chronic insomnia. I felt anytime I was sleeping, I
8 wasn't working, I wasn't doing more. I became somewhat
9 concerned for -- that after I was retaliated, that maybe my
10 friends and colleagues may be retaliated against as well on
11 campus. So I stopped socializing as much.

12 I live just a few blocks from Southeastern, and the park
13 that I went to was very close by. Maybe it was the depression
14 or just because of -- I stopped going to the dog park during
15 the day. I used to take my dog out in the morning, when it
16 was still dark, before I went to work, then in the evening
17 after dark.

18 I think that sort of symbolizes how I felt. It was a
19 very dark and sad time for me.

20 Q. Did you cry at all?

21 A. I -- I did. It's not something that -- I'm not
22 usually -- I don't usually like to emote in public, but it
23 became increasingly hard for me not to. Sometimes tears just
24 ran down my cheeks and I couldn't stop them.

25 Q. Did you ever cry at work?

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1 A. Sometimes.

2 Q. Did you cry in your office at work?

3 A. Sometimes.

4 Q. That hadn't really happened before all of this stuff
5 happened?

6 A. No. No, it's very unusual for me.

7 Q. So, Dr. Tudor, did you feel ashamed about the fact that
8 you were unemployed after you left Southeastern?

9 A. Yes, even though -- even though I followed all the rules,
10 I felt that people would look at me as if I hadn't followed
11 the rules, as if I had done something wrong, and that I was
12 being -- that I was somehow being justly punished for breaking
13 rules.

14 Q. I think you said when you worked at Southeastern, you
15 lived in a little house near campus; is that right?

16 A. Correct.

17 Q. When did you move out of that little house?

18 A. About 18 months after my last day at Southeastern.

19 Q. Because you had gotten a new job?

20 A. Correct.

21 Q. Okay. What was it like packing up your house?

22 A. Well, I had lived there in that same house, in the shadow
23 of Southeastern, for eight and a half years, which is the
24 longest I had lived anywhere in my life.

25 So it was very hard. I was moving to a one-bedroom

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1 apartment, so I couldn't take a lot of the things that were in
2 my house. So I had to give a lot of things away to my
3 neighbors and just put something -- putting other things just
4 out for anyone who needed them. They could just come by and
5 take them off the curb. Other things, I packed up in boxes
6 and I -- a lot of those boxes, I still haven't unpacked to
7 this day.

8 The other part is it's just painful, opening those boxes,
9 and part of it is also because I still have the hope and
10 expectation of returning to Durant and to Southeastern.

11 Q. After all this, after everything you went through there,
12 you still want to go back; is that right?

13 A. Yes, yes.

14 Q. So can you explain to the jury why it is, this many years
15 later, after all that happened to you, that you want to go
16 back?

17 A. Yes. Well, the people who broke the rules -- Lucretia
18 Scoufos, Doug McMillan, and Larry Minks -- are no longer at
19 Southeastern.

20 The people who supported me, the people who care about
21 me, my colleagues in my department, almost all of them are
22 still there. And I still -- I still keep in contact with
23 them, and they are still my best friends. And I know that
24 they would -- they would have that party they talked about
25 those years ago to welcome me back.

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1 And I -- I loved everything about teaching at
2 Southeastern, and I would like nothing more than to go back
3 and do the job that I did so well for so many years.

4 Q. Dr. Tudor, the State brought up money during their
5 opening.

6 For you, what is this case about?

7 A. This case is me getting my job back. I want to work.
8 I've always just wanted to be able to do my job, just like I
9 think anybody else would want to, especially if you've trained
10 for something, you've worked for something your entire life.
11 You just want to -- and my students and my colleagues, they
12 all told me I did a great job while I was there. It was never
13 a question of my being a good teacher there. So that's -- I
14 just want to do what I love doing.

15 Q. After all of this, do you think, truthfully, if given the
16 opportunity to go back and teach, you could put this all
17 behind you and teach?

18 A. Yes. Yes, of course. Yes. The classroom, it's -- I
19 call it my clean, well-lighted place. It's where I feel safe
20 and secure. My department is a place where I feel welcome and
21 at home.

22 The students were always -- were always welcoming, and I
23 see no downside to it. It's -- I can't think of any reason
24 not to return.

25 Q. Dr. Tudor, is there anything else that you want to say

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1 before I pass you off to Attorney Coffey?

2 A. I would just like to reiterate that this is not about
3 money. I just want my job back. I just want to go home and
4 see my friends again.

5 MR. YOUNG: Okay. Thank you. That's it for my
6 direct examination.

7 THE COURT: Ms. Coffey.

8 **CROSS-EXAMINATION**

9 BY MS. COFFEY:

10 Q. Good afternoon, Dr. Tudor.

11 You just finished telling the jury about a lot of things
12 that you lost after you left Southeastern, didn't you?

13 A. Yes.

14 Q. And how hard it was on you and what the pain and
15 suffering that you've gone through.

16 If you had accepted that offer, though, that President
17 Minks asked Dean Scoufos to make you, to give you another year
18 for tenure, you wouldn't have lost any of that, would you?

19 A. Are you referring to the offer that I asked to be put in
20 writing so -- is that the offer --

21 Q. Yes. I think you know I'm referring to the April 2010
22 offer that was made to you that "Please withdraw your
23 application so that we don't have to deny you tenure, so that
24 we don't have to say that next year is your terminal year, so
25 that we can give you the time to bolster your portfolio and

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1 apply for tenure."

2 That's the conversation that I'm talking about.

3 Had you accepted President Minks' offer, none of these
4 things that you lost would have existed, would they?

5 MS. NOVOTNY: Objection to the characterization of
6 that as an offer.

7 THE COURT: Overruled.

8 THE WITNESS: I'm sorry. I'm a little bit confused.
9 Could you please explain the question to me?

10 Q. (BY MS. COFFEY) Back when you received your offer in
11 April of 2010. You just indicated that it was the offer that
12 you had asked to be in writing.

13 When you rejected that offer that same afternoon, on
14 April 6th of 2010, when you rejected that offer, you didn't
15 mention anything about asking that offer to be in writing, did
16 you?

17 A. I asked for the offer to be in writing if it was
18 legitimate.

19 Q. So when you rejected -- when you wrote to Dr. Scoufos,
20 indicating that you were rejecting the offer she had made that
21 afternoon, are you telling this jury that in that written
22 rejection, you asked that that offer be made in writing?
23 Because you didn't. You didn't ask for it in writing. If you
24 had wanted it in writing, why wouldn't you have indicated that
25 in your rejection?

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1 MS. NOVOTNY: Objection. The counsel is testifying
2 here.

3 THE COURT: Ms. Novotny, this is Mr. Young's
4 witness. Only Mr. Young may make the objections.

5 MR. YOUNG: Your Honor, I respectfully make the same
6 objection.

7 THE COURT: Sustained.

8 Q. (BY MS. COFFEY) When is it that you asked for that offer
9 to be put in writing?

10 A. When my department chair and I were in the office with
11 Scoufos, I asked for the offer to be put in writing if it was
12 legitimate.

13 Q. You're aware that Dean Scoufos has testified previously
14 in this case and indicated there was never an offer -- you
15 never requested that offer be in writing; right?

16 You sat there in her deposition and you heard her testify
17 to that, didn't you?

18 MR. YOUNG: Objection, Your Honor. Counsel is
19 seeking hearsay.

20 THE COURT: Overruled.

21 MS. COFFEY: I'm trying to pull up an exhibit, Your
22 Honor.

23 THE COURT: Has it been admitted?

24 MS. COFFEY: No, Your Honor, it has not.

25 THE COURT: Nothing can be shown to the jury until

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1 it is admitted.

2 MS. COFFEY: Your Honor, would you like me to
3 approach to get one of the exhibits to show the witness? Our
4 copy for the witnesses are, I think, up there.

5 THE COURT: How many? Oh, yes, yes. Absolutely.

6 MS. COFFEY: May I hand these to the witness, Your
7 Honor?

8 THE COURT: Yes.

9 Q. (BY MS. COFFEY) All right. Dr. Tudor, I've handed you
10 what's been marked as Defendants' Exhibit 59. It is a memo
11 written from you to Dean Scoufos on April 6th of 2010.

12 Do you recognize this as the memo that you wrote, absent
13 Dean Scoufos's handwriting?

14 A. Excuse me. Could you ask the question again?

15 Q. Is this the memo that you wrote to Dean Scoufos on
16 April 6th of 2010 regarding the April 6th, 2010, meeting?

17 A. It appears so.

18 MS. COFFEY: I move for the admission of Defendants'
19 Exhibit 59.

20 THE COURT: Any objection?

21 MR. YOUNG: No objection, Your Honor.

22 MS. COFFEY: It doesn't appear to be working. Can I
23 stand over here?

24 THE COURT: Uh-huh. Just speak up.

25 MS. COFFEY: All right.

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1 Q. (BY MS. COFFEY) Dr. Tudor, this memo of yours written to
2 Dean Scoufos, it doesn't say anything in there about you
3 asking that that offer be made in writing, does it?

4 A. This particular memo does not.

5 Q. Is there another memo that you wrote regarding that
6 meeting in which you indicate that you requested it be in
7 writing?

8 MR. YOUNG: Objection, Your Honor, to this exhibit.
9 This is not the exhibit that plaintiffs received. This has
10 additional handwriting and markings on it.

11 MS. COFFEY: I disagree, Your Honor.

12 THE COURT: Well, you asked her to identify it
13 absent --

14 MS. COFFEY: She did.

15 THE COURT: -- Dr. Scoufos's handwriting, which I'm
16 assuming that is; correct?

17 MS. COFFEY: Correct.

18 THE COURT: Just cover that up for now. We'll get
19 it straightened out later.

20 Q. (BY MS. COFFEY) All right. Dr. Tudor, again I ask you,
21 where in this memo does it indicate that you had asked for
22 that offer to be put in writing

23 A. As I answered that question before, it doesn't appear in
24 this particular memo.

25 Q. But you told this jury that that was one of the reasons

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1 why you didn't want to accept that offer, that it was so
2 important to you that it be put in writing and they refused.

3 But if that had been the case, you would have put that in
4 the memo in which you rejected your offer, wouldn't you?

5 A. Not necessarily.

6 Q. I mean, had you put that in the memo and they had
7 understood that that was the basis for the rejection, they
8 would have had an opportunity to put it in writing for you,
9 wouldn't they?

10 A. Dean Scoufos was very clear that one of their objections
11 to the offer was because it was not in writing. I said that
12 to her in person.

13 Q. I'm sorry. I thought you said that Dean Scoufos was very
14 clear, that she made it clear. You're not saying that Dean
15 Scoufos made it clear to you that she wouldn't put it in
16 writing, are you?

17 A. Yes. She said that she would not put it in writing.

18 Q. Again, I mean, you didn't think that was important enough
19 to put that in your rejection of the offer?

20 MR. YOUNG: Objection, Your Honor. Asked and
21 answered.

22 THE COURT: Overruled.

23 Q. (BY MS. COFFEY) Now, Dr. Tudor, you also said that you
24 had some concerns, and one of the reasons you asked for it in
25 writing is because perhaps they wouldn't stand by that offer.

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1 Is that what you testified to earlier?

2 A. I believe I testified if it wasn't in writing, it was not
3 a legitimate offer.

4 Q. So the fact that they offered you the opportunity to
5 withdraw your tenure application, withdraw it before President
6 Minks denied it, and they would give you another year, that
7 that was not a legitimate offer, in your mind?

8 A. Well, the entire meeting with Lucretia Scoufos was
9 very -- very, very bizarre. I had doubts as to the legitimacy
10 of that offer, and Scoufos said that she had met with McMillan
11 and Minks, and yet Minks had not yet ruled on my application.

12 Q. Your department chair, John Mischo, was there with you,
13 wasn't he?

14 A. I believe so.

15 Q. So certainly he could have backed up any offer that was
16 made to you, couldn't he?

17 A. (No response.)

18 Q. Do you recall Dean Scoufos telling you, after she
19 presented President Minks' offer, telling you that it was a
20 gift?

21 A. May I answer the previous question?

22 I believe that John -- no. I know John Mischo agreed
23 with me that the offer should have been in writing, any
24 legitimate offer would be in writing.

25 Q. Dr. Tudor, Dr. Mischo, if he believes that, can come and

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1 testify to that, but Dr. Mischo was there with you when the
2 offer was made; correct?

3 I'm sorry. You answered that previously. He was there
4 with you?

5 A. Yeah.

6 Q. So -- but you recall when Dean Scoufos told you that it
7 was a gift, this offer; right?

8 A. I do not recall that term "gift," and I would not
9 characterize it as a gift.

10 Q. You're aware that Dr. Mischo has testified that he
11 concurred that she did indicate that that was a gift?

12 A. My recollection -- Dr. -- I believe Dr. Mischo
13 characterized it as a, quote, ultimatum.

14 Q. And the ultimatum was -- the ultimatum was you needed to
15 withdraw your tenure application so the president wouldn't
16 have to deny it; right? That was the ultimatum, if you would
17 withdraw it, resubmit in 18 months, they wouldn't have to deny
18 it; right?

19 A. I believe John Mischo is best qualified to explain what
20 he meant when he used -- described this offer as ultimatum.

21 Q. Now, Dr. Tudor, you indicated that you filed so many
22 complaints because you needed to make a record to get things
23 fixed; right?

24 A. That was one of the reasons I believe I testified to.

25 Q. Okay. You have testified probably five or six times

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1 today that you were told that Dr. McMillan wanted to fire you,
2 haven't you?

3 A. I don't recall the exact number of times, but I have
4 testified that he wanted fire me.

5 Q. Yet in not a single complaint that you filed at
6 Southeastern, not a single complaint of yours mentions you
7 were threatened with the fact that Dr. McMillan indicated he
8 wanted to fire you.

9 Why not?

10 A. I'm not sure that's accurate.

11 Q. Well, there's no written complaint that you submitted to
12 Southeastern in which you are complaining about one of these
13 poor work conditions or work rules that Cathy Conway placed on
14 you; right?

15 A. I'm not sure that's accurate either.

16 Q. All right. Can you identify a complaint that you
17 submitted to Southeastern in which you are complaining about
18 the work conditions that Cathy Conway placed on you during
19 that phone call in June of 2007?

20 A. I recall using the term "hostile" in one or more
21 complaints. I'd have to see the complaints to refresh my
22 memory.

23 Q. I will submit to you there isn't a single written
24 complaint that you have filed at Southeastern that complains
25 about these supposed work conditions that Cathy Conway placed

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1 on you.

2 But what I asked you earlier is where did you complain
3 about this threat that Doug McMillan wanted to fire you?

4 A. Again, I'd need to refresh my memory by looking at my
5 complaints.

6 Q. Well, isn't it the real reason why you can't recall it is
7 because Cathy Conway never told you that?

8 MR. YOUNG: Objection, Your Honor. Attorney Coffey
9 is testifying.

10 THE COURT: I'm sorry? I didn't hear that.

11 MR. YOUNG: Ms. Coffey is testifying for the
12 witness.

13 THE COURT: Overruled.

14 Q. (BY MS. COFFEY) Would you like me to repeat the question?

15 A. Yes, please.

16 Q. Isn't the reason why you never complained that
17 Dr. McMillan supposedly wanted to fire you is because Cathy
18 Conway never told you that?

19 A. No. That's absolutely untrue.

20 Q. Now, you sat through Cathy Conway's deposition, didn't
21 you?

22 A. Yes.

23 Q. You heard Cathy Conway testify that she never told you
24 that?

25 A. I don't specifically recall her testimony.

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1 Q. You heard Doug McMillan testify he never told Cathy
2 Conway, he never told her, he never asked her whether you
3 could be fired?

4 A. Is that a question?

5 Q. Yes. You heard that testimony by Doug McMillan, didn't
6 you?

7 MR. YOUNG: Objection, Your Honor. Again, these are
8 witnesses that are going to be called. They can testify as to
9 what they believe to be true.

10 THE COURT: She's allowed to impeach with others'
11 testimony. Overruled.

12 MR. YOUNG: Yes, Your Honor.

13 THE WITNESS: He may have testified -- he may have
14 said that, but I don't recall.

15 Q. (BY MS. COFFEY) Okay. So you have testified that you
16 filed all these complaints, again, because you wanted to make
17 a record, you wanted to get things fixed.

18 Well, if in 2007, as soon as Southeastern is notified of
19 your transition, you are threatened with the idea that a vice
20 president of academic affairs is asking if you can be fired,
21 don't you think that would have been something significant to
22 make a record of?

23 A. Are you asking in reference to a formal complaint? As I
24 testified earlier, who would I -- he was the head of H.R. and
25 vice president of academic affairs. Who would I complain to

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1 at that time?

2 Q. Dr. Tudor, you testified about your family earlier and
3 that you wanted to help your sisters, didn't you?

4 A. Yes.

5 Q. At any time while you were at Southeastern, were you
6 supporting your sisters?

7 A. On occasion.

8 Q. Okay. You wanted the jury to hear that testimony because
9 you wanted them to understand the financial burden that you
10 were undergoing. Is that why?

11 A. I believe the reason was so that the jury could
12 understand what the job -- that job meant not only to me, but
13 my relatives who had helped me get my education and my desire
14 to repay their sacrifices when I could.

15 Q. You wanted to repay their sacrifices, but you didn't pay
16 child support, did you?

17 MR. YOUNG: Objection, Your Honor. Relevance.

18 THE WITNESS: That's absolutely --

19 THE COURT: Sustained.

20 Q. (BY MS. COFFEY) Dr. Tudor, who makes up the faculty
21 appellate committee?

22 A. Tenured faculty members.

23 Q. It's all faculty, isn't it? No administrators; right?

24 A. As far as I know.

25 Q. All right. Well, is there some reason why you think

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1 there would be an administrator on the faculty appellate
2 committee?

3 A. Faculty members perform many roles. So sometimes faculty
4 members are appointed to administrative roles and then they
5 return to becoming a teacher and educator, like me.

6 Others -- so I don't know if a member of the faculty
7 appellate committee may have been designated administrator at
8 some time and then returned to faculty or an administrator may
9 have performed faculty duties.

10 Q. Okay. So it's fair to say, though, that while they're
11 serving on the faculty appellate committee, they are serving
12 in the role of faculty; right?

13 A. That's -- in general, I'd say that characterization is
14 accurate.

15 Q. All right. So it's not very often the faculty appellate
16 committee finds against a faculty member, is it?

17 A. The faculty appellate committee raise the evidence. If
18 the faculty member was at fault, then they would rule against
19 the faculty member. If they broke the rules -- if the
20 administration broke the rules, they'd find against the
21 administration. Whoever broke the rules, they would find
22 against.

23 Q. You have referred at least a few times that the faculty
24 appellate committee orders, that they issued orders.

25 That's not really true, is it? All they do is issue --

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1 they come down with a recommendation; right?

2 A. The way that -- the way that the administration has
3 always responded to it has been --

4 Q. I'm sorry.

5 A. -- as if they were directives.

6 Q. But my question to you -- yeah. My question is that the
7 faculty appellate committee -- I mean, they issue a nonbinding
8 recommendation to the administration; right?

9 A. Obviously, the administration did not honor their
10 decision, so it's nonbinding.

11 Q. Well, it's not a directive. The administration is not
12 required to follow it; right?

13 A. It's true that the faculty appellate committee has no --
14 has no way to enforce its decisions, what it's decided as
15 findings of fact.

16 Q. Let's jump to the tenure review process. You've never
17 sat on a tenure review committee; right?

18 A. That's correct.

19 Q. So you can't testify as to what's required with respect
20 to the review and the vote of denial or recommendation of
21 tenure, can you, from the committee's perspective?

22 A. From the committee's perspective?

23 Q. I'm sorry. That was really a bad question. I apologize.
24 Because you've never sat on a tenure review committee,
25 you can't testify about exactly what takes place during a

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1 tenure review committee, can you?

2 A. Since I have not sat on a tenure review committee,
3 that's -- it's accurate to say that I can't testify to what
4 occurs in a tenure review committee.

5 Q. When you applied for tenure in 2008 and the committee
6 voted 5-0 against recommending you for tenure, you chose to
7 withdraw your tenure application that year, didn't you?

8 A. I'd say that's a mischaracterization.

9 Q. You didn't withdraw it? So you sent it on up for further
10 consideration?

11 A. No. You said a vote of 5-0. The tenure committee has
12 one vote; the department chair has one vote.

13 Q. Dr. Tudor, let's go back. You've never sat on a tenure
14 review committee, as you just testified; right?

15 A. Correct.

16 Q. There are five members on a tenure review committee at
17 Southeastern, or at least there was at the time you submitted
18 your --

19 MR. YOUNG: Objection, Your Honor. Assumes facts
20 not in evidence.

21 THE COURT: Just a moment. She's asking. He can
22 answer if he knows.

23 Q. (BY MS. COFFEY) When you submitted your portfolio for
24 review in 2008 and again in 2009, there were five members each
25 year that sat on that tenure and review committee; right?

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1 A. Correct.

2 Q. And each one of those committee members had a vote;
3 right?

4 A. That's incorrect.

5 Q. But, again -- and what do you base that on?

6 A. The testimony of my department chairs in their
7 depositions, they stated that the tenure committee has one
8 vote.

9 Q. I'm not sure which depositions you're referring to, but
10 you sat in the deposition of Randy Prus?

11 A. And John Mischo, both of them.

12 Q. And John Mischo. And both of them talked about the
13 tenure review votes in 2008 of 5-0 and 2009 of 4-1; correct?

14 A. I believe they explained that the tenure committee has
15 one vote and the department chair has one vote.

16 Q. Well, that one vote is determined, though, then by
17 everybody in the committee votes, right, and the majority
18 wins? Is that how the one vote is determined?

19 A. Again, as you stated, I have not served on one, so I --
20 John Mischo or Randy Prus would be the people to ask how the
21 process actually works within the close confines of the tenure
22 review committee.

23 Q. Then let's go back to 2008. So the five members vote no,
24 which results in a vote at a tenure review denying
25 recommendation of tenure for you.

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1 So at that point you withdrew your tenure application,
2 didn't you?

3 A. It's accurate to say that I -- that I took back my
4 application in 2008-2009, as I testified to.

5 Q. Okay. So you withdrew after it didn't pass a particular
6 level.

7 Why didn't you do the same in 2010? You knew it hadn't
8 passed at least two levels. You knew that Dean Scoufos and
9 Dr. McMillan had both indicated they would recommend tenure
10 denial; right?

11 A. I think there's two questions there.

12 Q. Okay. There are.

13 You knew in 2010, before that April meeting, that
14 Dr. Scoufos had denied tenure recommendation for you; right?

15 A. I had received notification from Lucretia Scoufos that
16 she was denying my tenure application and recommending my
17 termination at the end of that current year.

18 Q. You also learned that Vice President McMillan was
19 recommending tenure denial for that year; correct?

20 A. I had also received notice from Doug McMillan that he was
21 also denying my tenure application.

22 Q. Dr. Tudor, is there a difference when I said that you
23 knew that they had recommended tenure denial versus you
24 receiving a notice?

25 I mean, are you suggesting there's something suspicious

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1 about receiving a notice as opposed to just learning that they
2 had recommended your tenure denial?

3 A. I'm -- I'm not following why you're confused.

4 Q. Well, I'm asking you what I think is a yes-or-no
5 question.

6 Did you know that Dean Scoufos had recommended tenure
7 denial, and instead of saying yes, you said, "Well, I had
8 received notice."

9 So you knew; right?

10 A. Yes, I was confirming that.

11 Q. Okay. So at either one of those levels, after you knew
12 that Dr. Scoufos had denied your tenure -- or was going to
13 recommend tenure denial, why didn't you withdraw it then?

14 A. They refused to give me any rationale or reasons for the
15 denial of tenure.

16 Q. Okay. And is the same thing true, then, for that's why
17 you didn't withdraw when Dr. McMillan -- when you learned that
18 Dr. McMillan was recommending tenure denial?

19 A. Dr. McMillan also failed to follow the rules by giving me
20 any reason or rationale for his decision.

21 Q. Dr. Tudor, you have told this jury a few times today that
22 they failed to follow the rules because they failed to give
23 you an explanation.

24 The rule -- the policy is that at the end of the tenure
25 process, the president may provide an explanation for tenure

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1 denial. That's the rule, isn't it?

2 A. That is not the way that the faculty appellate committee
3 interprets the rules or that I interpret the rules, or that --
4 the rules.

5 Q. It is certainly the way that -- a document that you have
6 testified about earlier, that's certainly the way Chip Weiner
7 interpreted that rule, isn't it, that the president has the
8 option at the end of tenure denial to provide an explanation?

9 Do you remember being told that?

10 A. Dr. Weiner said that even though the faculty appellate
11 committee had decided that Lucretia Scoufos and Doug McMillan
12 were obliged to give me their explanations under the rules,
13 that instead -- instead, Douglas McMillan would write a letter
14 to me on behalf of Larry Minks, giving Larry Minks's reasons
15 for denying me tenure.

16 That's my recollection of the Weiner letter.

17 Q. And that wasn't my question.

18 My question was, the rule is that the president, at his
19 discretion, may provide an explanation for tenure denial.

20 That's the rule, isn't it?

21 A. I don't believe that's accurate.

22 Q. Well, when your attorney is asking you questions and you
23 kept referring to "the rule, the rule," if there really was a
24 rule that required at each step of the process to provide an
25 explanation, where is it?

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1 There isn't any rule. There is no rule that requires
2 Dean Scoufos or Dr. McMillan to provide an explanation to you
3 in the middle of the process; right?

4 A. Is that -- I lost the question in there with --

5 Q. I think back -- can you identify the rule that you keep
6 claiming existed that required an explanation during the
7 middle of the tenure process?

8 A. Yes. It's the rule that the faculty appellate committee
9 ruled on. They said that they were obliged under the rules to
10 give me those explanations.

11 Q. And when it was all said and done, when you refused to
12 withdraw your tenure application so the president had no
13 choice but to deny you tenure, you then were given an
14 explanation for the tenure denial, weren't you?

15 A. Was there two questions there? It's hard for me to
16 follow you. I'm sorry.

17 Q. After you were denied tenure, you let it go all the way
18 through the process, you refused to withdraw, and President
19 Minks denied your tenure, you were then provided an
20 explanation, weren't you?

21 A. By Douglas McMillan of Minks's rationale.

22 Q. All right. Now, you indicated earlier that the reason it
23 was important that you had known somewhere through the process
24 would be so that you could change something.

25 Am I correctly characterizing your testimony?

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1 A. I think my testimony was more substantial than that.

2 Q. Well, change or correct anything if it needed to be done.

3 A. Well, I think I also referenced that I could clarify any
4 misunderstanding; that I could answer any question that, for
5 instance, Lucretia Scoufos or Doug McMillan would have at any
6 point; that if they needed any more information, that I could
7 provide it.

8 So there was -- again, I don't recall everything I
9 testified to earlier, but it was more than simply the one
10 thing that you asserted.

11 Q. But isn't the process set up in this manner: That a
12 candidate submits their tenure portfolio, and, once it's
13 submitted, there can't be any changes, you don't make
14 additions? If the portfolio that you submitted is
15 insufficient, it stands on its own; right?

16 A. No, that's absolutely false. That's incorrect.

17 Q. So you think you could have added things to your
18 portfolio in 2009? Is that what you're claiming, that you
19 could have added or changed things to your portfolio after you
20 learned of the reason for a denial at any level?

21 A. Portfolios have been amended before. So it's perfectly
22 permissible, yes.

23 Q. After you submitted your portfolio, you were allowed --
24 in 2009, you were allowed to add to that portfolio another
25 publication, weren't you?

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1 A. There was additional publications. I believe John Mischo
2 included it as well.

3 Q. I'm sorry. Was it your publication or John Mischo's
4 publication?

5 A. You asked if it was -- I believe the question was, was it
6 allowed to be amended?

7 Q. Yeah.

8 A. And that's why I was talking about John Mischo, who was
9 the department chair and who I submitted my portfolio to.

10 Q. No. I'm sorry, Dr. Tudor.

11 I mean, my question was, after you submitted your
12 portfolio at the beginning of the process in 2009, you were
13 allowed to add another publication to it somewhere in the
14 process, weren't you?

15 A. I believe -- I can't recall specifically. If you could
16 refresh my memory, I'd be happy to answer that question.

17 Q. That's okay. The individual that was involved in that
18 submission can testify that you were permitted to do that.

19 When you submitted your portfolio in 2008, you did it
20 with the advice of Mark Spencer telling you that you needed
21 two publications, didn't you?

22 A. I don't recall that.

23 Q. You didn't have any publications when you submitted your
24 portfolio in 2008, did you?

25 A. I believe that's inaccurate.

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1 Q. Why?

2 A. The University of Oklahoma has a journal called World
3 Literature Today, and I had published a book review in that.
4 That's a publication.

5 There's different types of publications.

6 Q. You agree with me, wouldn't you, that what's really
7 important about publication is that they're quality,
8 peer-reviewed publications; right?

9 A. I'm sorry. Could you ask the question again.

10 Q. Do you understand what a peer-reviewed publication is?

11 A. Yes.

12 Q. And it's important in your portfolio, each candidate,
13 that they have peer-reviewed publications; correct?

14 A. That's a part of a larger portfolio, correct.

15 Q. Are you suggesting it's not required?

16 A. I'm simply trying to give you an accurate picture of a
17 portfolio, which is a cumulative -- which is the cumulative
18 work of a tenure-track faculty member that has many, many
19 components, including peer-reviewed articles.

20 Q. You testified about the meeting that Dean Scoufos had
21 with you before you submitted your 2009 tenure portfolio.

22 Do you remember that?

23 A. Yes.

24 Q. Okay. So when Dean Scoufos met with you, she went
25 through a sample portfolio packet with you, didn't she, trying

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1 to -- explaining to you how your portfolio was supposed to be
2 submitted, what order, and what needs to be in there; right?

3 A. I'd say that's a mischaracterization of what she actually
4 did.

5 Q. So are you telling the jury that she didn't go over this
6 packet with you?

7 A. The way that you described the packet, I believe, is
8 inaccurate.

9 Q. Describe the packet for me.

10 A. I think what you're referring to is a list of technical
11 requirements for the portfolio, such as font size and the size
12 of the binder, perhaps the different -- the packet refers to
13 technical requirements, not substantive requirements. I
14 believe that's why we're -- I believe your question was -- may
15 have confused the jury.

16 Q. Well, I'll tell you what, since it took me so long to
17 pull the last exhibit out of the notebook, I'll wait until a
18 break to pull out the promotion packet so we can talk about it
19 so I won't be so confusing. So I apologize.

20 During this meeting with Dean Scoufos, did you take notes
21 about what was needed for your portfolio?

22 A. I don't recall.

23 Q. Do you recall in your deposition that you testified that
24 you took notes at the meeting but you didn't save them?

25 A. That would be -- if it -- that would be helpful to

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1 refresh my memory. Thank you.

2 Q. Did you not think it was important to save notes that you
3 had taken during this meeting?

4 A. Any substantive comments about the portfolio would have
5 been extremely valuable. I wish I had received them.

6 Q. Can you identify a single question that you asked Dean
7 Scoufos that she refused to answer during that meeting?

8 A. Does that -- the gist of the questions, yes.

9 Q. Do you remember when I asked you that same question
10 during your deposition?

11 Of course, it's been a while, March of 2016, but I asked
12 you that same question, if you could recall a single specific
13 question that you're claiming she wouldn't answer. You
14 couldn't recall a single one.

15 A. Thank you for the clarification, as I just answered the
16 gist, but not any specific, concrete question. That's why I
17 said "the gist." But any specific question...

18 Q. And your recollection is the gist of the conversation is
19 that Dean Scoufos refused to answer any substantive questions
20 you posed to her about what your portfolio needed to contain?

21 A. I'm sorry. Could you ask me that again.

22 Q. Yeah. I mean, you keep saying that you can't recall
23 specifics but you recall the gist of the conversation with
24 Dean Scoufos when she's meeting with you to tell you what you
25 need to do to submit your portfolio.

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1 And the gist of that conversation, as you recall, is that
2 she refused to answer any substantive questions you posed to
3 her?

4 A. Correct.

5 Q. You were present at Dean Scoufos's deposition, weren't
6 you?

7 A. Yes.

8 Q. Is it safe to say that her recollection and her testimony
9 regarding her over-one-hour session with you is significantly
10 different than your recollection?

11 A. I think there's two questions there. I don't know how --
12 there's a question about how long her session was with me when
13 you say "over an hour," and then --

14 Q. You heard Dean Scoufos testify that she met with you for
15 at least an hour to discuss what you needed in your 2009
16 portfolio; right?

17 A. That she testified to that?

18 Q. Yes.

19 A. She may or may not. The deposition lasted, as you know,
20 many of them, all day. And they occurred over several years.
21 If you'd like to refresh my memory with an excerpt from the
22 deposition, I'd be happy to answer it.

23 Q. What I'm asking you is, is your recollection of that
24 meeting significantly different than Dean Scoufos's
25 recollection?

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1 A. I remember that we testified that different -- that
2 different things occurred during that meeting.

3 Q. That's the same meeting where you accused Dr. Coleman of
4 discrimination, isn't it?

5 A. I --

6 Q. Yes or no, was that the same meeting that you accused
7 Dr. Coleman of discrimination?

8 MR. YOUNG: Objection. Mischaracterizes testimony.

9 THE COURT: He can answer for himself. Overruled.

10 MR. YOUNG: Herself, Your Honor.

11 THE COURT: I'm sorry.

12 MR. YOUNG: Thank you, Your Honor.

13 THE WITNESS: I would not characterize it that way.

14 Q (BY MS. COFFEY) Are you claiming that you didn't accuse
15 Lisa Coleman of discrimination?

16 A. I believe I raised a concern, but I think that's
17 different than the way that you had characterized it.

18 Q. Dr. Tudor, do you remember in your deposition when you
19 indicated that you voiced a concern?

20 A. Yeah.

21 Q. And then, though, do you remember me showing you
22 discovery responses where you said, "I was informing Dean
23 Scoufos of her responsibility to determine whether or not Lisa
24 Coleman was discriminating against me"?

25 A. If you could refresh my --

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1 Q. Is that correct?

2 Is that -- as you sit here today, is that how you depict
3 your conversation with Dean Scoufos, that you were informing
4 her of her responsibility to determine whether or not Lisa
5 Coleman had discriminated against you?

6 A. And it would help if you could refresh my memory with
7 that document you're looking at. I don't have that.

8 Q. Well, what I'm looking at are my notes. I'm asking you
9 if my statement is an accurate depiction of your conversation
10 with Dean Scoufos.

11 A. Okay.

12 Q. Were you or were you not asking her to look into
13 discrimination by Lisa Coleman because you're transgender?

14 A. I voiced a concern that there may be possible -- that may
15 be a possibility.

16 Q. Okay.

17 THE COURT: Let me stop you here. We'll take our
18 afternoon break. Please don't discuss the case, don't allow
19 others to discuss it with you.

20 Dr. Tudor, to you, counsel, jury, everyone, I apologize.
21 I often get my gender pronouns mixed up. It just matters more
22 in this case, and I need to be more careful.

23 We'll be in recess until three o'clock.

24 (Jury exits.)

25 (In recess 2:45 p.m. until 3:00 p.m.)

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1 (Jury enters.)

2 THE COURT: Be seated.

3 Proceed.

4 MS. COFFEY: May I approach the witness, Your Honor?

5 THE COURT: Yes.

6 MS. COFFEY: I've handed the witness what's been
7 marked as Defendants' Exhibit 82.

8 Q (BY MS. COFFEY) Dr. Tudor, can you identify that
9 document?

10 A. It says it's an application portfolio for promotion to
11 associate professor rank with tenure status.

12 MS. COFFEY: I move for the introduction of
13 Defendants' Exhibit 82.

14 THE COURT: Mr. Young, any objection?

15 MR. YOUNG: No objection, Your Honor.

16 THE COURT: Admitted.

17 Q. (BY MS. COFFEY) Dr. Tudor, we had talked a little while
18 ago, and I could not get exhibits pulled quickly enough, so I
19 waited until the break. But what I've presented to you is the
20 tenure packet we had discussed earlier.

21 This is the packet that Dean Scoufos gave to you when she
22 met with you in 2009; right?

23 A. It contains the technical aspects of the portfolio:
24 where our name should be, the font size, the table of
25 contents.

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1 THE COURT: Dr. Tudor, let me ask you to listen
2 carefully to the question that is asked and answer that
3 question. Many of these can be answered with yes or no, which
4 would make this process very much faster.

5 THE WITNESS: Yes.

6 THE COURT: This, for example, is a yes-or-no
7 question.

8 THE WITNESS: Yes, Your Honor. I apologize. Thank
9 you.

10 Q. (BY MS. COFFEY) Dr. Tudor, it does, it sets forth several
11 sections that are required to be in your portfolio packet;
12 right?

13 A. Yes.

14 Q. For instance, there's a table of contents that shows
15 Sections 1, 2, 3, and 4, which require credentials, teaching
16 achievements, research and scholarship, and service
17 proceedings; right?

18 A. Yes.

19 Q. Are these the technical matters that you had testified
20 about earlier that Dean Scoufos went over with you?

21 A. Yes.

22 Q. And you talked about a letter of application to be
23 included in your portfolio, didn't you?

24 A. Yes.

25 Q. The transmittal form, that's a department form; that's

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1 not something that's prepared by the candidate. Right?

2 A. Yes.

3 Q. Then there's a section to be included, not in order, of
4 credentials; correct?

5 A. Yes.

6 Q. And there's a Section 2 for teaching achievements; right?

7 A. Yes.

8 Q. Research and scholarship section; correct?

9 A. Yes.

10 Q. Section 4, service proceedings; right?

11 A. Yes.

12 Q. When Dean Scoufos provided you this packet, did you have
13 questions or concerns about what needed to be provided in each
14 section?

15 A. Yes.

16 Q. Did she answer those concerns?

17 A. No.

18 Q. Without asking you -- retreading over old testimony, are
19 these the questions and concerns that you claim that you posed
20 to her that you can't remember but you're certain that she
21 didn't answer them?

22 A. With this exhibit refreshing my memory, I certainly do
23 recall what these headings -- asking questions about various
24 headings, what they referred to, what would be good examples,
25 and how those different examples would be evaluated by her and

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1 others reviewing my portfolio.

2 Q. Okay. And is it your testimony that you posed each of
3 those questions to her and she refused to answer them?

4 A. Those types of questions.

5 Q. Now, before the break, we were discussing your -- this
6 same session with Dean Scoufos, but we were discussing the
7 issue of accusing Lisa Coleman of discrimination.

8 Do you remember that testimony?

9 A. Yes.

10 Q. You told Dean Scoufos that you didn't want Lisa Coleman
11 on your tenure committee, didn't you?

12 A. That's incorrect.

13 That's a mischaracterization, let's say, to be precise.
14 It's a mischaracterization.

15 Q. Did you tell her that you did want Lisa Coleman on your
16 tenure review committee?

17 A. She asked me who I wanted on the committee and who I
18 would prefer not to be on the committee.

19 And, in reference to the question, who would you prefer
20 not to be, so it's not -- do not -- I'm sorry. I don't mean
21 to quibble about --

22 THE REPORTER: Excuse me.

23 (Brief interruption.)

24 Q. (BY MS. COFFEY) So you told Dean Scoufos that you would
25 prefer that Lisa Coleman not be on your tenure and review

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1 committee; correct?

2 A. I responded to her question, who would I prefer not to
3 be.

4 Q. And you told her that Lisa Coleman had discriminated
5 against you ever since your transition because she wasn't
6 including you on bus trips that the honors college was taking;
7 right?

8 A. That's incorrect.

9 Q. Okay. Were you accusing Lisa Coleman of discrimination
10 because you were being excluded from honors trips?

11 A. My concern was that pretransition, I was attending the
12 trips with the honors classes, and posttransition I hadn't
13 been invited. And that was my concern.

14 Q. So that concern was enough to ask Dean Scoufos to look
15 into whether or not Lisa Coleman was discriminating against
16 you; right? That was your purpose?

17 A. Again, I was responding to Dean Scoufos's question, who I
18 would prefer not to be on my -- not to be on my committee.

19 Q. Do you remember at your deposition when I posed this
20 question, "So were you or were you not suggesting that Lisa
21 Coleman discriminated against you?"

22 Answer: "I was informing Dean Scoufos of her
23 responsibility to determine whether or not Lisa Coleman was
24 discriminating against me."

25 A. I don't recall that particular exchange. If you could

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1 refresh my memory, I would --

2 Q. Would you like to see your deposition?

3 MS. COFFEY: May I approach the witness?

4 THE COURT: Please provide the page number and line
5 number for counsel.

6 MS. COFFEY: This would be Dr. Tudor's deposition,
7 page 183, lines 22 through 25, page 184, line 1.

8 May I approach?

9 THE COURT: Yes.

10 Q. (BY MS. COFFEY) Dr. Tudor, if you would please turn to
11 page 183 of your deposition -- 183, line 22.

12 A. I found it.

13 Q. Beginning on line 24, wasn't this your testimony?

14 "I was informing Dean Scoufos of a responsibility to
15 determine whether or not Lisa Coleman was discriminating
16 against me."

17 A. That's a mischaracterization in context.

18 Q. Okay. But that's what your testimony was that day;
19 right?

20 A. That is very misleading to the jury without the context.

21 Q. You later learned that the honors trips had stopped --
22 I'm sorry. I'm through with your deposition for now, if you
23 wouldn't mind closing it.

24 Thank you. I'm sorry. I just don't want you to be
25 distracted and think I'm referring to it when I'm referring to

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1 papers down here.

2 So you later discovered that the honors trips stopped
3 because the bus wasn't running; isn't that right? There had
4 been no honors trips for at least a few years; correct?

5 A. There was -- there was some problem with -- the honors
6 trips had ceased.

7 Q. Okay. And it wouldn't have been that hard for you to
8 find out whether those trips had been taking place before you
9 accused Dr. Coleman of discrimination, would it?

10 A. That's a gross mischaracterization. It was a concern.

11 Q. Okay. But it wouldn't have been very hard for you to
12 find out whether your concern was legitimate, would it?

13 Couldn't you have asked Dr. Coleman about whether the
14 honors trips were taking place?

15 A. Yes.

16 Q. Okay. But you didn't, did you?

17 A. At some point, I did.

18 Q. Now, when you finished your meeting with Dean Scoufos
19 that day, there was no agreement from Dean Scoufos that Lisa
20 Coleman would not serve on your committee, was there?

21 A. It was my understanding.

22 Q. Okay. And then that misunderstanding was cleared up
23 through a series of e-mails with your department chair and
24 then a subsequent meeting between you and Dean Scoufos and
25 Dr. Mischo, wasn't it?

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1 A. So could you ask that question again.

2 Q. Was your understanding, when you left that meeting, that
3 Dr. Coleman would not serve on your committee? And that's
4 what you told Dr. Mischo, isn't it?

5 A. I believe that -- I believe the reason she asked me the
6 question at the time --

7 Q. I'm sorry. What -- that wasn't my question. I don't
8 even remember what it was.

9 You told Dr. Mischo through an e-mail that Dean Scoufos
10 had assured you that Lisa Coleman -- that you-all had agreed
11 that Lisa Coleman would not serve on your committee and that
12 instead Mark Spencer would be your chair; right?

13 A. I believe I e-mailed or talked to Dr. Mischo when I
14 learned that Lucretia Scoufos had appointed Lisa Coleman as a
15 chair of my tenure committee after asking me if there's anyone
16 I'd prefer not to be on my committee.

17 Q. And then that was all cleared up, and Dean Scoufos made
18 it clear in a meeting with you and Dr. Mischo that that had
19 never been an agreement between you; right?

20 A. That's incorrect.

21 Q. Okay. There was never any discussion in your meeting
22 with Dean Scoufos either that Dr. Althoff would serve on your
23 committee; right?

24 A. That's incorrect.

25 Q. Are you saying that Dean Scoufos agreed that Dr. Althoff

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1 would be on your tenure review committee?

2 A. He was one -- I believe that he was one of the people I
3 mentioned in reference to the question who would I prefer to
4 be on my committee.

5 Q. You never apologized to Lisa Coleman for having that
6 concern or for accusing her of discriminating against you
7 because you're transgender, did you?

8 A. Lisa and I talked at length, and there was no -- it was
9 simply a concern and a misunderstanding. There was no need
10 for an apology, and she wrote me an excellent letter
11 recommending me for tenure. And the committee that she
12 chaired recommended me for tenure as well.

13 We are Facebook friends.

14 Q. Did you ever tell Dean Scoufos that you had cleared up
15 the issue of the honors trips?

16 A. I don't recall if I told her or if Mischo -- I don't
17 recall how -- I don't recall.

18 Q. Okay. Let's go back to this June 2007 -- the phone call
19 that you had with Cathy Conway.

20 Did you complain in 2007 to the EEOC about that phone
21 conversation?

22 A. In 2007?

23 Q. Yes.

24 A. No.

25 Q. Well, you testified earlier that you didn't believe that

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1 Southeastern's discrimination policies protected transgenders.

2 Am I stating your prior testimony correctly?

3 A. I believe that's what I was told.

4 Q. Well, I'm not asking what -- are you claiming that Cathy
5 Conway told you that Southeastern's policies don't protect
6 transgenders?

7 A. I'm sorry. What was the --

8 Q. Did Cathy Conway tell you in that June 2007 phone call
9 that Southeastern's discrimination policies do not protect
10 transgenders?

11 A. That was my understanding.

12 Q. She specifically gave you the sexual harassment policy
13 and the discrimination policy, and she discussed them with you
14 and told you that if you had any problems, these were the
15 policies, this is how you could address them.

16 A. Is that a question?

17 Q. Didn't you think that was odd if she's also suggesting to
18 you that they don't protect transgenders?

19 A. She raised the question -- she raised the policy of
20 sexual harassment in reference to restricting me from using
21 the women's restroom and the rules about my dress. She said
22 that would be construed as sexual harassment and I could be
23 fired immediately.

24 Q. So now you're claiming that, when she placed these work
25 conditions on you of how you dress and your makeup and the

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1 bathroom usage, that she told you that if you -- that if you
2 didn't follow those rules, that it can be viewed as you
3 sexually harassing somebody else?

4 A. Words to that effect.

5 Q. Tell me what those words are.

6 A. I don't recall the exact words, but that was my
7 understanding.

8 Q. When you testified in March of 2016, you never mentioned
9 anything like that that Cathy Conway told you. You never
10 said, "She told me that if I wore makeup a certain way, I
11 would be sexually harassing others." You never testified that
12 she told you, if you wore short skirts or other inappropriate
13 dress, from what you're saying today, that that would be
14 sexually harassing others -- other colleagues, other students.
15 I don't know.

16 You never testified to that back then. Did you just
17 forget it?

18 A. It was in my understanding. It was in context.

19 Q. Because she never said, "If you dress this way or if you
20 wear makeup in a certain way or if you use a certain bathroom,
21 you will be sexually harassing someone else." She never said
22 that to you, did she?

23 A. I don't remember the precise words after all these years,
24 but it was my understanding.

25 Q. How is it that you have a different understanding as you

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1 sit here today than you ever did in 2016 or when you filed
2 your EEOC complaint?

3 A. I don't believe --

4 Q. None of those accusations are there, but you're just
5 remembering them today?

6 A. I don't believe that's an accurate characterization.

7 Q. You agreed in your deposition when I said you thanked --
8 when the conversation ended with Cathy Conway, you thanked her
9 "for your professionalism."

10 You agreed that you thanked her "for your
11 professionalism."

12 Do you remember that?

13 A. And not firing me, as McMillan had asked her to do. That
14 was specifically in reference to that.

15 Q. So you're claiming that you thanked her for not firing
16 you? You thanked -- "Thank you for your professionalism.
17 Thank you for not firing me." Was that the context?

18 A. I believe the job of a person who's in charge of H.R. is
19 not to allow administrators to break the rules and summarily
20 fire faculty or employees.

21 Q. Dr. Tudor, that wasn't my question. I understand that's
22 your belief, but my question, though, was specific.

23 You thanked Cathy Conway for her professionalism because
24 she wasn't going to fire you. Is that what you're claiming
25 you said?

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1 A. It was in reference to that specific act.

2 Q. So in your deposition when I asked you if you recall
3 thanking Cathy Conway for her professionalism in discussing
4 with you these transgender issues, including the use of a
5 particular bathroom, you said, "I don't recall stating those
6 words."

7 And I said, "Something to that effect?"

8 Your answer was, "I may have complimented her on her
9 professionalism."

10 Is your testimony different today?

11 A. May I refresh my memory with that deposition?

12 Q. You may.

13 A. What page are we on?

14 Q. Please turn to page 309 of your deposition. 309, line 14
15 through 23.

16 A. This ends on page -- this ends on page 232.

17 Q. I'm sorry. What?

18 A. This ends on page 232.

19 Q. Oh, okay. I'm sorry. Volume II.

20 MS. COFFEY: May I approach the witness?

21 THE COURT: Yes.

22 THE WITNESS: What was the page number again?

23 Q. (BY MS. COFFEY) All right. Page 309, line 14 through 23.

24 So line 22 and 23, your answer is, "I may have
25 complimented her on her professionalism."

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1 That's what you said, isn't it?

2 A. Yes, yes.

3 Q. And then on lines 24, 25, and 26, I said, "Okay. Just
4 now when I asked you that question, you didn't want to admit
5 that. You acknowledged that you thanked her for her
6 professionalism. Is that true?"

7 "Answer: And I said I may or may not."

8 Is that your testimony?

9 A. Yes.

10 Q. You didn't testify in March of 2016 that you thanked
11 Cathy Conway for her professionalism for not firing you
12 because you didn't say that, did you?

13 A. This is -- in context you'll notice that attorneys --

14 Q. No. Dr. Tudor, my question now is not what you said in
15 your deposition in context. Nowhere in that deposition does
16 it say, "I thanked her for her professionalism for not firing
17 me."

18 So my question to you is you didn't testify about it in
19 March 2016 because Cathy Conway didn't say that to you, did
20 she?

21 A. That's --

22 Q. Nobody thanks somebody for not firing -- no one says,
23 "Thank you for your professionalism. Thank you for not firing
24 me."

25 A. That's inaccurate. There's objections in here. So I was

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1 not allowed -- there's -- there seems to be legitimate reasons
2 why there are objections here, and it's very confusing, the
3 questions that you're asking and my responses. People were
4 talking over each other. So I'm --

5 Q. Dr. Tudor, the question is very simple. The question is
6 you thanked Cathy Conway for her professionalism.

7 And you said, "I may have complimented her" --

8 MS. GALINDO: Objection, Your Honor. May we
9 approach?

10 Q. (BY MS. COFFEY) -- "on her professionalism."

11 What is confusing about that question?

12 THE COURT: Approach the bench.

13 (The following proceedings were had at the bench and out
14 of the hearing of the jury.)

15 MR. YOUNG: She's not letting the witness answer the
16 question. She keeps interrupting.

17 THE COURT: If this witness would only answer a
18 question, I would stand up and cheer. This is painful. I
19 don't know if you-all are watching the jury, but it's equally
20 painful for them.

21 You do have to let her answer the question even if she's
22 never going to answer a question.

23 And Sherri has now thrown her hands up once. Once she
24 starts, it keeps going. So don't talk over her.

25 MS. COFFEY: All right.

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1 THE COURT: While I've got you up here, Jeff and I
2 are working on instructions. We believe that this needs a
3 verdict form with special interrogatories. You-all have not
4 submitted a proposal. We would like to have one from you
5 tomorrow morning.

6 MS. GALINDO: We may have one additional request for
7 an instruction based on the defendants' opening with respect
8 to what the remedial -- what the remedy is.

9 THE COURT: Submit away. They're not final until
10 they're final.

11 MS. GALINDO: Thank you, Your Honor.

12 THE COURT: But they will become final. So do it
13 quickly. I mean, do it by tomorrow.

14 MR. YOUNG: Just to clarify, Your Honor, because I
15 know we have other mutual issues of the jury instructions. By
16 tomorrow, it's only the requirement that we have the verdict
17 form with the special interrogatories? Or are you seeking all
18 of the jury instructions finalized?

19 THE COURT: Well, we plan -- the way I do it is you
20 begin with Jeff and he mediates just to the extent you can
21 agree. We were planning on starting that process either
22 tomorrow afternoon or Wednesday morning.

23 You can still submit additional instructions, but we'd
24 like to get --

25 MR. YOUNG: Just wanted to clarify. Thank you, Your

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1 Honor.

2 THE COURT: Uh-huh.

3 (The following proceedings were had in open court with
4 all parties present and within the hearing of the jury.)

5 Q. (BY MS. COFFEY) Dr. Tudor, let's talk about some other
6 things that you discussed with Cathy Conway in that 2007
7 telephone call.

8 She discussed with you the option of using a unisex,
9 single-stall bathroom, but she never told you that that's the
10 only bathroom you could use at Southeastern, did she?

11 A. That's incorrect.

12 Q. If she made the demands such as you say, tell me what she
13 said.

14 A. She said I was not allowed to use the women's restroom,
15 that I may only use the single-occupant restroom on the second
16 floor of Morrison.

17 Q. So you couldn't use any other unisex bathroom on campus?

18 A. I don't believe there was another single-occupant
19 bathroom on campus at that time.

20 Q. Dr. Tudor, of course there was. Are you familiar with
21 the student union?

22 A. I believe the student union was under construction at
23 that time.

24 Q. There's been a student union. You're referring now to
25 the new student union.

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1 As you sit up there today, you can't testify that there
2 were no other unisex bathrooms on campus, can you?

3 A. At that time, I had no knowledge of other
4 single-occupant --

5 Q. Did you ever go back to Cathy Conway --

6 I apologize. Are you done? Dr. Tudor, I didn't let you
7 finish. I started talking.

8 At no point did you go back to Cathy Conway and tell her
9 this was causing a problem, did you?

10 A. No.

11 Q. Did you ever ask about using other bathrooms?

12 A. To Cathy Conway?

13 Q. Yes.

14 A. No.

15 Q. Now, you know Cathy Conway testified that that's not the
16 conversation that she claims that she had with you and that,
17 instead, it was a conversation to assist you in using a
18 bathroom that you were most comfortable with. And during that
19 conversation, the two of you agreed that perhaps the unisex
20 bathroom might be the most beneficial bathroom to you as you
21 began your transition; right?

22 A. Are you asking me if that's her testimony or is that --

23 Q. No. I'm asking you -- yes, that's Cathy Conway's --
24 that's what you heard Cathy Conway testify to, isn't it?

25 A. It would help if I could see her testimony to refresh my

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1 memory.

2 THE COURT: If you don't know the answer, the answer
3 would be "I don't know."

4 THE WITNESS: Thank you. I don't recall.

5 Q. (BY MS. COFFEY) Okay. When Cathy Conway called you, did
6 you bring up any issues that you thought you might have to
7 face as you began your transition?

8 A. I don't recall.

9 Q. It took you a long time to come to the decision, didn't
10 it? Meaning, the decision to transition was a process that
11 you had been going through for at least a few months, if not
12 several months, before you notified Southeastern.

13 Is that an accurate description?

14 A. It's something that a person lives with their entire
15 life.

16 Q. Okay. So when you gave those documents to the human
17 resources department that indicated you were going to begin
18 presenting as a female in the fall of 2007, had you given any
19 thought to the issues that you might face there at
20 Southeastern, specifically, you know, whether there would be
21 any questions about bathrooms, whether you needed to give any
22 explanation to students or to faculty members?

23 Had you given any thought to those issues?

24 A. I gave thought to many, many issues. Those are probably
25 among them.

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1 Q. So did you make any suggestions to Cathy Conway regarding
2 the bathroom that you would feel comfortable using?

3 A. No.

4 Q. Why not?

5 A. Because she called me at home in the late evening and, I
6 mean, that's --

7 Q. Excuse me real quick. You keep referring to "late
8 evening." What time was that phone call?

9 A. It was -- I recall it was dark outside. I don't know
10 precisely what time it was.

11 Q. Okay.

12 A. I had been -- it was enough time for me to be off work,
13 to come home, to walk my dog in the park, to eat our dinner.
14 So that was -- for me, it was late. I'm usually a very early
15 riser.

16 Q. So my question, though, you didn't bring up any issues,
17 give any assistance to Cathy Conway regarding problems that
18 you thought you might face; right?

19 A. Under the circumstances, I was frightened and alarmed.
20 No.

21 Q. And you never reported -- you never submitted any
22 complaint about the conditions that Cathy Conway placed on you
23 to Southeastern?

24 A. At that time, no.

25 Q. At any time before you left the university in May of

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1 2011, you never submitted any complaint talking about these
2 conditions that Cathy Conway supposedly placed on you in that
3 June 2007 call, did you?

4 A. I'd have to refresh my memory with my complaints.

5 Q. Dr. Tudor, you've had a lot of time to prepare for your
6 testimony today, haven't you?

7 A. Yes.

8 Q. And you can't think of a single written complaint that
9 you submitted to Southeastern concerning those conditions, can
10 you?

11 A. Excuse me. I was coughing. I didn't hear all of your
12 question.

13 Q. You cannot think of a single written complaint that you
14 submitted to Southeastern to address these conditions that
15 you've been testifying about, can you?

16 A. I can't recall the specifics of every complaint.

17 Q. You, earlier this afternoon -- maybe it was this
18 morning -- that you applied to over 100 colleges and
19 universities to find a job when you left Southeastern; right?

20 A. Correct.

21 Q. Can you explain why, through discovery, over 70 of those
22 colleges notified us that they had not received any job
23 application from you?

24 MR. YOUNG: Objection, Your Honor. That assumes
25 facts not in evidence.

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1 THE COURT: The witness may answer if she knows.

2 THE WITNESS: I have no idea why you would suggest
3 that.

4 Q. (BY MS. COFFEY) Well, I would suggest it -- do you
5 remember in your deposition when you testified that you had
6 applied to over 100 colleges and universities but that you had
7 minimal, if any, documentation to verify those applications?

8 A. They're online applications, and I submitted my
9 application online.

10 Q. Do you remember telling me during your deposition that
11 your computer had been destroyed and, therefore, you didn't
12 have any of those documents?

13 A. I -- I don't recall using the word "destroyed." There
14 was --

15 Q. Corrupted?

16 A. I'm not sure what --

17 Q. Let me make it quick then. Do you recall saying that the
18 reason that you didn't have most of these job applications or
19 responses from these universities is because something went
20 wrong with your computer, so you had lost a lot of it?

21 A. I don't recall that.

22 Q. Do you have any idea how many of those universities you
23 applied to were for tenure-track positions?

24 A. I don't know.

25 Q. But you testified earlier how important tenure-track

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1 position is. Wouldn't it be important to know whether you
2 were applying for a tenure-track position?

3 A. I was applying for employment. I was unemployed. Every
4 job was important to me.

5 Q. Okay. So you obtained a job at Collin College, and you
6 talked about the classes you were teaching there.

7 Did you dislike teaching the English comp classes?

8 A. No.

9 Q. And you taught English comp classes while at
10 Southeastern; right?

11 A. Yes.

12 Q. And you were nonrenewed for your job at Collin College;
13 right?

14 MR. YOUNG: Objection, Your Honor. We believe this
15 evidence has been excluded.

16 THE COURT: Sustained.

17 Q. (BY MS. COFFEY) Dr. Tudor, since you've left
18 Southeastern, have you ever been criticized for your teaching
19 abilities?

20 A. Everybody's criticized, so, yes.

21 Q. In fact, Collin College students criticized you greatly
22 for your teaching, didn't they?

23 MR. YOUNG: Objection, Your Honor. Again, this
24 evidence has been excluded.

25 May we approach?

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1 THE COURT: Sustained. Yes.

2 MR. YOUNG: Thank you.

3 (The following proceedings were had at the bench and out
4 of the hearing of the jury.)

5 THE COURT: Ms. Coffey, I sustained this objection
6 to all this testimony this morning, didn't I?

7 MS. COFFEY: No, you didn't, Your Honor.

8 MR. JOSEPH: Your Honor, my notes from this morning
9 say that with regard to the defendant -- the motion in limine
10 in that, that you were going to hold it in abeyance.

11 THE COURT: Yes. I've thought about what you said,
12 the reasons that you want it in. In my mind, I sustained it.
13 I just forgot to announce it.

14 I believe that Southeastern succeeds or fails on what it
15 knew at the time it failed to renew tenure. What happened
16 later opens a whole slew of rebuttal evidence and other things
17 that are wasting time. Given today's testimony, I don't think
18 we need any more of that.

19 I think there are other ways to attack her credibility
20 and her view of her teaching short of going to the job and
21 opening up all the details.

22 So I am sorry. I thought I had already ruled on it.
23 That's all out.

24 MS. COFFEY: May we then make sure that on redirect
25 he doesn't allow Dr. Tudor to testify about today how she

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1 loves to teach, she's a good teacher, she feels like she can
2 go back in the classroom and perform well, because that's what
3 she testified to on direct. She's proven otherwise.

4 THE COURT: Well --

5 MR. YOUNG: Your Honor -- sorry to interrupt you,
6 Your Honor.

7 Respectfully, we need the decision to cut off her back
8 pay at your invitation for a strategic reason that was very
9 clear. We filed it with the Court so they would have time in
10 advance to be aware of it so they could prepare.

11 THE COURT: I do want to make sure all of you
12 agree -- let me ask if all of you agree that both front pay
13 and reinstatement come from me.

14 MS. COFFEY: Yes.

15 MR. YOUNG: Yes, Your Honor.

16 THE COURT: If I want more testimony about that once
17 they have returned a verdict, I can get it. I am going to
18 instruct them any evidence regarding Collin County
19 performance -- not the job itself, the performance -- should
20 be disregarded. Okay?

21 MR. YOUNG: Thank you, Your Honor.

22 THE COURT: There's a reason for this rule.

23 MR. BUNSON: I understand, Your Honor. The question
24 I have, though, is, we have Collin College and we have
25 Seminole State College, or Holly Newell. Does that also --

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1 THE COURT: Yes.

2 MR. BUNSON: -- Holly Newell?

3 THE COURT: Yes.

4 MR. BUNSON: Thank you, Your Honor.

5 MR. YOUNG: Thank you, Your Honor.

6 (The following proceedings were had in open court with
7 all parties present and within the hearing of the jury.)

8 THE COURT: It turns out I had not made a ruling I
9 thought I had made.

10 I'm going to instruct the jury that any evidence
11 regarding the plaintiff's performance while at Collin County
12 College or Collin College is irrelevant, shouldn't be
13 considered by you.

14 Please proceed.

15 Q. (BY MS. COFFEY) Dr. Tudor, you should have in front of
16 you Plaintiff's Exhibit 84 that was introduced earlier.

17 A. I've found it.

18 Q. I believe you testified earlier --

19 MR. YOUNG: Objection, Your Honor. This exhibit has
20 hearsay markings on it. This is not the marked exhibit the
21 defendants gave us or that we entered.

22 THE COURT: Do you have a clean copy?

23 MS. COFFEY: Do we have a clean copy?

24 I'll go back to this one.

25 THE COURT: Well -- okay.

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1 MS. COFFEY: I'm sorry. If the machine was working,
2 we could do it electronically.

3 THE COURT: The wonders of modern technology. Here
4 they are.

5 MS. COFFEY: Yes. While you're at it, will you pull
6 Exhibit 30?

7 Q. (BY MS. COFFEY) Dr. Tudor, Exhibit 84, I think you
8 previously had identified as a memo that you received from
9 Doug McMillan on October 5th of 2010. Is that correct?

10 A. Yes, yes.

11 Q. Let me draw your attention, Dr. Tudor, to the first --
12 the first line -- first three, four lines in the second
13 paragraph.

14 Dr. McMillan told you that "After reviewing the academic
15 policy and procedure manual, I find no policy that allows for
16 an application for tenure in a subsequent year after being
17 denied tenure and promotion in the previous year."

18 That's what it says; right?

19 A. That's what Doug wrote.

20 Q. Now, you testified that the rule -- that there is no
21 rule -- in fact, that the rule allows you to continue
22 resubmitting every year if you want to during your fifth,
23 sixth, and seventh year; right?

24 A. One of the rules, yes, we're allowed to do that.

25 Q. Dr. McMillan is informing you he finds no rule that would

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1 allow for that after it's denied through the full process;
2 right?

3 A. That is his -- what he wrote.

4 Q. Is it your understanding that Dr. McMillan came to that
5 conclusion based on the policies and procedures that had been
6 followed in the past by Southeastern?

7 A. I don't know how he came to that conclusion. It's
8 inaccurate.

9 Q. As you sit here today, you are completely familiar with
10 the fact that tenure -- I'm sorry -- that faculty members can
11 withdraw their tenure portfolio at any step in the process;
12 right?

13 A. Applicants, yes.

14 Q. Okay. But you can't identify a single person that has
15 allowed it to go all the way to the top and the president
16 denied it and then they were allowed to reapply, can you?

17 A. I believe that's because administration usually honors
18 the tenure and promotion committee's decision.

19 Q. I'm sorry. Dr. Tudor, my question was, as you sit here
20 today, you cannot identify a single person that went through
21 the entire tenure process and was denied at the president's
22 level and then was allowed to reapply for tenure, can you?

23 A. I know of no other case like mine.

24 Q. The answer is no to my question, though, isn't it?

25 A. (No response.)

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1 Q. Now, is it fair to say that nobody really knows,
2 including you, what happens in other faculty members' tenure
3 processes?

4 A. The tenure --

5 Q. Let me ask you a more specific question.

6 It's possible that professors withdraw their tenure
7 application and other faculty members may not know that they
8 have ever applied; right?

9 A. That's possible.

10 Q. Okay. And you testified that yours is the only situation
11 in which the administration disagreed with a decision by the
12 tenure and review committee. That's what you testified to;
13 right?

14 A. I believe it was to the -- I'm sorry.

15 I believe my testimony was that no one who had been
16 approved for tenure by their department had been denied tenure
17 by the administration.

18 Q. Okay. Now, your counsel had discussed or had you discuss
19 earlier, but there are five levels, right, of the tenure
20 review process: the tenure review committee, the department
21 chair, then the dean of the college, the vice president of
22 academic affairs, and then the president; right?

23 A. Yes.

24 Q. And you're familiar with the term "shared governance";
25 right?

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1 A. Yes.

2 Q. And is it fair to say that that term partly relates to
3 sharing the governing of the university between both the
4 faculty and the administration?

5 A. Very complex concept. That's part of it.

6 Q. Okay. That's part of it.

7 So if what you're trying to tell the jury is that the
8 tenure committee is the one that gets to decide who gets
9 tenure, there would be no purpose for the next level of the
10 dean, the next level higher of the VP of academic affairs, or
11 the president; right?

12 A. I think that's an inaccurate characterization of what I
13 said.

14 Q. Are you suggesting they should just rubber-stamp those
15 applications when they come out of the committee?

16 A. That's inaccurate.

17 Q. Each person or each level, whoever is doing that review
18 at each of those levels, has an independent obligation to
19 Southeastern and to that candidate to thoroughly review the
20 portfolio to determine if it is sufficient for tenure; right?

21 A. Yes.

22 Q. If you will turn to Plaintiff's Exhibit 30.

23 I'll tell you what, Dr. Tudor, while we're waiting to put
24 the exhibit up, let me ask you, this is the April 29th letter
25 to you from Charles Weiner; correct?

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1 A. Yes.

2 Q. This is the one that you testified about earlier where
3 you talked about the rule, that there was a rule that you be
4 provided reasons. But let me direct you to the second
5 paragraph after the word "provided" and semicolon.

6 "However, it needs pointed out that there is no policy
7 that stipulates that the vice president and/or the dean is
8 compelled to provide reasons as to why tenure and promotion
9 were denied. The president's authority, as delegated to him
10 from the RUSO board of regents, is clearly spelled out in
11 Section 3.7.3 in the policies and procedures manual.

12 "This section, and I quote, states that it is the duty of
13 the president to see to it that the standards and procedures
14 in operational use within the college or university conform to
15 the policy established by the governing board and to the
16 standards of sound academic practice."

17 He's telling you that there is no rule that you be
18 provided an explanation in the middle of the tenure process;
19 right?

20 A. This is advice-- this is Charles Weiner, who worked
21 under Doug McMillan's interpretation.

22 Q. But that is what Charles Weiner's letter to you is
23 telling you, correct, that there is no rule that has the
24 interpretation that you testified to; right?

25 A. These are his words. This is what he says, yes.

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1 Q. If you'll look to, in the third paragraph, where he says,
2 he "reviewed all the pertinent facts and noted that in
3 Section 3.7.4 there is no requirement for anyone, including
4 the president, to state their reasons if their recommendation
5 is different than the recommendation of the department tenure
6 and promotion committee."

7 That's what it says; right?

8 A. That's what it says.

9 Q. But it's your testimony that there's a different rule
10 that specifically says the reason should be provided; is that
11 right?

12 A. Yes.

13 Q. Okay. Where is that rule?

14 A. It's in the policy and procedures handbook. It's what
15 the faculty appellate committee ruled on.

16 Q. Okay. Well, this jury hasn't been presented that rule,
17 have they?

18 A. I believe we have a professor who served on the faculty
19 appellate committee who will be testifying, Dr. Knapp.

20 MS. COFFEY: May I have a moment to consult with
21 counsel, Your Honor?

22 THE COURT: Yes.

23 Well, we'll just take an early day. I know the first day
24 is always the hardest.

25 Don't discuss this case. Don't permit others to discuss

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1 it with you. Don't expose yourself to any media accounts of
2 this case. If there's something in the paper, just have
3 somebody else cut it out and you can read it afterward.

4 Don't do any independent internet or other research about
5 this case. Don't blog, don't tweet, don't Instagram, don't
6 Facebook, or whatever else I don't even know to tell you.

7 Please be in the jury assembly room. I believe we'll try
8 to start at 9:15. We won't try to start; we will start at
9 9:15. That gives us a little bit of wiggle room.

10 Please be in the jury assembly room before 9:15. We will
11 start at that time.

12 I will excuse you now and see you tomorrow.

13 (Jury exits.)

14 THE COURT: I understand that defendants have been
15 at a disadvantage without having marked exhibits. I take it
16 from the exchange a few minutes ago that you now have them.

17 No?

18 MR. BUNSON: They are not all marked, Your Honor.
19 We'll just have to give them some back.

20 MR. YOUNG: We are almost there.

21 THE COURT: This is just not acceptable. You have
22 to be able to put your fingers on those documents. I think
23 this thing works. I think it's just not hooked up somehow
24 between your computer and it. I don't know what you-all are
25 going to do, but we have got to be more efficient with

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1 exhibits.

2 Dr. Tudor, you have got to answer a question directly or
3 it's just going to keep on being asked, and that's going to
4 take a lot more time than it needs to take.

5 Counsel, have your instructions with regard to proposed
6 jury instructions and verdict forms.

7 And we'll be adjourned until 9:15 tomorrow.

8 (In recess at 4:00 p.m.)
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REPORTER'S CERTIFICATE

I, SHERRI GRUBBS, Federal Official Court Reporter in
and for the United States District Court for the Western
District of Oklahoma, do hereby certify that pursuant to
Section 753, Title 28, United States Code that the foregoing
is a true and correct transcript of the stenographically
reported proceedings held in the above-entitled matter and
that the transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Dated this 13th day of November, 2017.

/S/ SHERRI GRUBBS

SHERRI GRUBBS, RPR, RMR, RDR, CRR
State of Oklahoma CSR No. 1232.
Federal Official Court Reporter